



**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

15 CRIMINAL APPLICATION NO. 3760 OF 2023

**UJWALA DHANANJAY CHUDHARI AND ANOTHER
VERSUS
DHANANJAY DILIP CHAUDHARI AND OTHERS**

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Mrs. S. M. Sonpethkar, Advocate for the Applicants

Mr. I. K. Wagh, Advocate for Respondent Nos. 1 and 2

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CORAM : Y. G. KHOBRAGADE, J.

DATE : 25.11.2024

PER COURT :-

1. Heard both the sides at length.
2. By the present Application, the Applicant wife praying for transfer of P.W.D.A.No.74 of 2017 from the file of learned J.M.F.C. Raver to the file of learned J.M.F.C. at Aurangabad.
3. It is not in dispute that the love marriage of the present Applicant No.1 was solemnized with non-applicant No.1 on 30.06.2009. However, with consent of parents of both, the marriage ritual performed on 06.06.2010 at Bhusawal. After the marriage, the Applicant cohabited with the non-applicant No.1

husband. However, due to some differences / illtreatment at the hands of the non-applicant, she was compelled to stay at her parental house. The Applicant instituted a proceeding bearing P.W.D.A. No.74 of 2017 under the provisions of the Prevention of Women From Domestic Violence Act, 2005 before the learned J.M.F.C. Raver. However, during the pendency of said proceeding the applicant secured admission of her child in 6th standard in Greenvally Montessori School, Aurangabad and she looking after her son. Therefore, she is unable to attend the proceeding at Raver, which is 180 kms., away from Aurangabad, hence, prayed for transfer of the proceeding to the J.M.F.C. Aurangabad from the file of the learned J.M.F.C., Raver.

4. The learned Counsel for the non-applicant strongly resisted the Application on the ground that prior to 7 years, the applicant has instituted a proceeding under the provisions of the Protection of Women from Domestic Violence Act and now the Applicant seeking transfer of the said proceeding at Aurangabad merely on ground that she shifted at Aurangabad for educational purpose of her child.

5. It is further canvassed that the Respondent Nos. 2 and 3 are old age persons and considering their health issues, they are not unable to attend the proceeding on each and every date at Aurangabad. Further, the Applicants will required to examine the witness from her parental side as well as from other relatives who are staying in Jalgaon district. In that event, all the witnesses will face difficulties while attending the Court, hence, prayed for rejection of the application.

6. In the case of *Sumita Singh Vs. Kumar Sanjay and Another, (2001) 10 SCC 41*, the Hon'ble Supreme Court transferred the matrimonial proceeding filed by the husband against the wife in Ara, Bhojpur to Delhi. Section 407 of Cr.P.C., empowers this Court to transfer a criminal proceeding from one Court to another. It is trite well settled principle of law that the matrimonial proceeding can be transferred to the Court in whose jurisdiction the wife is residing and for the sake of convenient to the wife.

7. In the case in hand, though the Applicant cohabited with the non-applicant No.1 at Jalgaon, but soon after differences she started residing with her parents within the jurisdiction of J.M.F.C. Raver. Therefore, she instituted a proceeding under the Protection of

Women from Domestic Violence Act. However, subsequently, she shifted at Aurangabad for educational purpose of her child who has been admitted in a reputed school, namely, Greenvally Montessori School, Aurangabad. The Applicant No.2 son of the applicant No.1 and non-applicant No.1, is studying in 6th standard. The Applicant No.1 required to take care of her child. Therefore, in case, the present Applicants attend the Court proceeding at Raver, in that event she will have to spend near about more than six hours for up and down, which certainly caused inconvenience and hardship to the applicant. Therefore, considering the nature of dispute as well as convenience, it would be just and proper to withdraw the P.W.D.A. No.74 of 2017 from the file of the learned J.M.F.C. Raver and to transfer it to the file of the learned J.M.F.C. at Aurangabad.

8. After the proceeding is received, the learned Chief Judicial Magistrate, Aurangabad, shall allot the said case to any Magistrate for expeditious decision.

9. The Application is accordingly disposed of.

[Y. G. KHOBRADE, J.]