



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

909 CRIMINAL APPLICATION NO. 2266 OF 2024

1. Dipali Balu Panchal
 2. Shrikant Balu Panchal
- ...Applicants

Versus

1. Balu s/o Jagannath Panchal
 2. Harubai w/o Jagannath Panchal
 3. Rajendra s/o Jagannath Panchal
 4. Neha d/o Jagannath Panchal
- ...Respondents

Advocate for Applicant : Mr. Vikas S. Tanwade

.....

CORAM : SHIVKUMAR DIGE, J.
DATED : 24th SEPTEMBER, 2024.

PER COURT :-

1. By this application, the applicant is seeking transfer of proceedings filed by her against the respondents. The applicant also seeks transfer of criminal appeal filed by the respondents against her. The respondent No.1 is husband, respondent No.2 is mother-in-law, respondent No.3 is brother-in-law and respondent No.4 is sister-on-law of applicant No.1.

2. Learned counsel for the applicants submits that respondent No.1 was already married and by suppressing the said fact, he again performed marriage with applicant No.1. When applicant No.1 came to know this fact, the respondents started harassing applicant No.1.

Applicant No.1 has filed complaint against the respondents under Section 498-A, 494, 323, 504, 506 r.w. of I.P.C. bearing R.C.C. No.466 of 2022, which is pending before the learned Chief Judicial Magistrate, Latur, at Latur. Applicant No.1 has also filed proceeding under provisions of Protection of Women from Domestic Violence Act 2005, bearing Criminal Misc. Application (D.V.) No. 28 of 2023 against the respondents, which is pending before the J.M.F.C. Latur. In said D.V. proceeding, the learned trial court ordered to give interim maintenance to the applicants. The said order has been challenged by the respondent by filing appeal bearing criminal appeal No. 24 of 2023, which is pending before the learned District and Sessions Judge at Latur. When these proceedings were filed, at that time, the applicants were staying at Shivaji Nagar, Murud (BK), Tq. and district Latur. But now the applicants are residing at Junoni, Tq. and district Osmanabad. Applicant No.2 is son of applicant No.1, he is two years old. Applicant No.1 is finding it difficult to travel from Junoni to Latur, which is more than 50 kilometers, to attend the court dates at Latur. Hence, requested to transfer all the proceedings pending at Latur to the respective courts at Osmanabad.

3. Though the respondents are served, none present for them. On the last date, this court had given chance to the respondents to go on with the matter. Today also, none present for

the respondents, hence, I am deciding this matter on merit.

4. The applicants have filed criminal proceedings bearing R.C.C. No. 466 of 2022 pending before the Chief Judicial Magistrate, Latur. The applicant has also filed Criminal Misc. Application bearing No. 28 of 2023 under the Domestic Violence Act which is pending before the J.M.F.C. Latur. In the said proceeding, the learned trial court has allowed the interim maintenance application of the applicants. The said order has been challenged by the respondents by way of criminal appeal and the said criminal appeal No. 24 of 2023 is pending before the learned District and Sessions Judge, Latur. When these proceedings were filed, at that time, applicant No.1 was residing at Shivaji Nagar, Murud (BK), Tq. and district Latur and now she is residing at Junoni, Tq. and district Osmanabad. Applicant No.1 is an illiterate lady. She is unemployed. She has no source of income. She is taking care of the applicant No.2. The distance between Junoni, Tq. and district Osmanabad to Latur is more than 50 kilometers. It is settled principle of law that while transferring the matrimonial proceedings, convenience of the wife has to be considered. Considering these facts, I pass the following order:-

O R D E R

I. Criminal application is allowed.

- II. The criminal proceeding bearing R.C.C. No. 466 of 2022 pending before the court of learned Chief Judicial Magistrate, Latur be transferred to Chief Judicial Magistrate or Judicial Magistrate, First Class at Osmanabad. The criminal proceeding bearing Criminal Misc. Application (D.V.) No. 28 of 2023 pending before the court of learned Judicial Magistrate, First Class, Latur be transferred to Judicial Magistrate, First Class, Osmanabad. The criminal appeal No. 24 of 2023 pending before the court of learned District and Sessions Judge at Latur be transferred to the District and Sessions Judge, Osmanabad.

(SHIVKUMAR DIGE, J.)

rlj/