

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO. 325 OF 2021

Mrs. Sujata Vijay @ Vijaykumar Mane .Applicant

Vs.

Mrs. Kamal Vimal Mane & anr. .Respondents

Mr. Hanmant Govind Wakshe, Advocate, for the Applicant

Ms. Mrunmai Khambete, Advocate, for Respondent No. 1

Ms. Manisha R. Tidke, APP, for Respondent No. 2 - State

CORAM : MILIND N. JADHAV, J.

DATE : 18.12.2024

P. C.

1. Heard Mr. Wakshe, learned Advocate for the Applicant, Ms. Khambete, learned Advocate for Respondent No. 1 and Ms. Tidke, learned APP for Respondent No. 2 – State.

2. This Application is filed by the Applicant, who is the daughter-in-law of the private Respondent i. e. Respondent No. 1. Respondent No. 1 has filed Cri. Misc. Appln. No. 21 of 2021 against the Applicant under Sections 12, 18 & 22 of the Protection of Women from Domestic Violence Act, 2005 before the learned JMFC Court, Taluka – Jat, District – Sangli and is prosecuting the same. It is seen that there is a matrimonial dispute between the Applicant and her husband who is the son of Respondent No. 1. From the cause title of the Application, it is

gathered that the Applicant is resident of A-1/4, Shivdarshan Plaza, Sector-10, Plot No. 31, Nerul, Navi Mumbai – 400 706. The averment is to the effect that she is residing there with her parents who are permanent residents of Nerul, Navi Mumbai along with her minor daughter. Thus, it is seen that the Applicant is also required to take care and provide support for her minor daughter. The averments made in paragraph No. 4 of the Application and the grounds enumerated in paragraph No. 7 of the Application, if read, are *prima facie*, required to be believed. Apart from proximity of the distance between the two destinations, the Applicant is undoubtedly going to suffer difficulty and inconvenience, if she is required to travel all the way from Nerul, Navi Mumbai to Taluka – Jat, District – Sangli. It is seen that her daughter is minor i.e. seven years old and if the Applicant is required to travel to Sangli, she would have to make appropriate arrangement for her daughter as also seek help of an elder or parent to accompany her and would also face financial constraints. The inconvenience of the Applicant is evident from the averments and the grounds mentioned in the Application. Equally, it is seen that private Respondent No. 1 though has filed Cri. Misc. Application under the Protection of Women from Domestic Violence Act, 2005 in Sangli, residential address of Panvel is also shown. Arguments and submissions on behalf of the

private Respondent are to the effect that since 2013, she is residing in Taluka – Jat, District – Sangli alongwith her husband. Hence, even if she is required to travel to Nerul, Navi Mumbai to attend the proceedings in Belapur, Navi Mumbai, she will have lesser inconvenience as she has a residence to reside. Learned Advocate for private Respondent also seeks to place on record letter of private Respondent No. 1 stating that as per the Medical Certificate dated 14.12.2023 issued by the Medical Superintendent, Rural Hospital, Jath, District – Sangli, she is suffering from hypertension and early parkinson's disease and she cannot travel long distance due to above ailments. Considering that there is a residence of her son available at Khanda Colony, Panvel, this Court is of the opinion that she atleast has residence of her son.

3. In view of the above, I am not inclined to accept any of the submissions made on behalf of the learned Advocate for the private Respondent to oppose the present Application. Considering the imprimatur of the Supreme Court in the case of *N.C.V. Aishwarya vs. A. S. Saravana Karthik Sha*¹, whenever a Court is confronted with such a transfer proceeding in matrimonial dispute/matter, it is directed that Court will have to consider an array of factors affecting the convenience that would be caused to the wife. In the present case, the

¹ AIR 2022 SC 4318

fact is that wife is required to take care and support for her minor daughter as also her inconvenience will completely outweigh the submissions of the private Respondent. Be that as it may, the submissions made by the learned Advocate for the Respondent No. 1 also deserve to be considered in the facts of this case. Hence, Respondent No. 1, if so desires can make an appropriate Application to seek to appear on V.C. according to her convenience and if such an Application is made, learned JMFC, Belapur shall consider the said Application and permit Respondent No. 1 to appear on V.C. on the scheduled dates of hearing. Needless to state that if her appearance is required, she will have to appear, but the trial Court shall then give her adequate notice.

4. With the above directions, the Application stands allowed in terms of prayer clause (a) which reads thus :-

“(a) That this Hon’ble Court be please to pass an appropriate order transferring the proceeding i. e. Criminal M. A. No. 21 of 2021 pending at Judicial Magistrate First Class, Jat, Tal – Jat, District – Sangli to JMFC Vashi at CBD Belapur Navi Mumbai.”

5. The Application stands disposed of.

(MILIND N. JADHAV, J.)