

Wadhwa

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 102 OF 2023

Chetan Naginbhai Surti ...Applicant
Versus
Hetal Chetan Surti & Anr ...Respondents

Dr Samarth Shrikant Karmarkar, *with Arsuma Suhel, i/b*
Karmarkar & Associates, for the Applicant.
None, *for the Respondent.*
Ms Sharmila Kaushik, APP, *for the State.*

CORAM Kamal Khata, J.
DATED: 23rd January 2024

PC:-

1. None for the Respondent-wife.
2. This Application is under Section 407 of the Code of Criminal Procedure, 1973 (“CrPC”) for transfer of the proceedings filed before the 68th Metropolitan Magistrate’s Court at Borivali to the Family Court at Bandra.
3. The Application was previously listed on 7th October 2023 when the Respondent-wife remained present in person. Thereafter the matter was listed on 4th November 2023 when the Respondent-wife remained absent.

4. According to the learned counsel for the applicant, the grounds for transfer are similar to the case of *Rohan Shah vs Nishigandha Shah*¹. He submits that this application also is an intercity transfer as stated in the application. He therefore submits that in view of the judgement of this Court in the case of Rohan Shah (*supra*), this Application should be allowed.

5. Having considered the facts of this matter, coupled with a view to avoid hardships and expense to parties and to also avoid multiplicity of proceedings and conflicting findings, I find it appropriate to grant the Application for transfer.

6. Moreover, in view of the judgement in the case of Rohan Shah (*supra*), I pass the following order;

(i) Application is allowed in terms of prayer clause (a) which reads thus:

“(a) Issue direction to transfer the Application u/sec. 12 and 23 of Protection of Women from Domestic Act, 2005, vide CC No. 6800085/DV/2017 filed by the Non-Applicant No. 1 herein bearing pending before the Ld. Metropolitan Magistrate’s 68th Court at Borivali, Mumbai, against the Applicant herein to Hon’ble Family Court Bandra, Mumbai, Court No.6.”

1 2023:BHC-AS:38681; 2023 SCC OnLine Bom 2719

(ii) The transfer be effected within a period of four weeks and upon receipt of the papers and proceedings, the Family Court at Bandra to give notice to the parties concerned, preferably within three weeks, to proceed with their respective matters.

(iii) Interim Application for maintenance, if any, to be considered expeditiously by the Family Court.

(iv) Application stands disposed of in the above terms.

(v) No orders as to costs.

(vi) All concerned to act on the authenticated copy of this order.

(Kamal Khata, J)