

Arjun

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.189 OF 2023**

Mrs. Gauri Sunil Patil

...Applicant

Versus

Smt. Padma Manaji Patil

...Respondent

Mr. Tejas Hartalkar, for the Applicant.

Ms. Savita M. Yadav, APP, for the State.

**CORAM : MADHAV J. JAMDAR, J.
DATED : MARCH 06, 2024**

P.C.:

1. Heard Mr. Hartalkar, learned Counsel for the Applicant.
None appears for the Respondent.

2. A learned Single Judge [Sarang V. Kotwal, J.] by Order dated 15th September 2023 has issued notice to the Respondent. This Criminal Application was listed before this Court on 14th February 2024. As per Office noting, service was awaited. Therefore, this Court passed the following Order on 14th February 2024.

"1. *Await service.*

2. *Stand over to 6th March 2024.*

3. *Ad-interim relief granted earlier to continue till next date.*

4. *In the meanwhile, learned Advocate appearing*

for the Applicant to serve the Respondent by private service and file affidavit of service before the returnable date.

5. Notice to indicate that subject to the convenience of the Court, the Criminal Application will be heard finally at the stage of admission."

3. Mr. Hartalkar, learned Counsel for the Applicant states that pursuant to the Order dated 14th February 2024, he has served the Respondent and filed affidavit of service on 4th March 2024. In spite of service, none appears for the Respondent. The Order dated 14th February 2024 specifies that subject to the convenience of the Court, the Criminal Application will be heard finally at the stage of admission. Today, none appears for the Respondent, in spite of service.

4. Mr. Hartalkar, learned Counsel submits that the Respondent is the mother-in-law of the Applicant. The Applicant got married with Sunil Manaji Patil i.e. son of the present Respondent on 17th June 2019. Said Sunil Manaji Patil is an Advocate, practicing in the Court at Kalyan, District-Thane. Due to the strained marital relations between the Applicant and her husband Sunil Manaji Patil, the Applicant started residing at her parental home at Village-Aarala, Taluka-Shirala, District-Sangli. On 19th October 2022, the Applicant has filed D.V. Application No.142 of 2022 in the Court of learned J.M.F.C, Shirala, District-

Sangli *inter alia* against the husband Sunil Manaji Patil and the present Respondent-Padma Manaji Patil i.e. mother-in-law of the Applicant. He submitted that as counterblast to the D.V. Application No.142 of 2022 filed by the Applicant, the Respondent i.e. mother-in-law has filed the said D.V. Application No.351 of 2022 against the Applicant and 12 others in the Court of learned J.M.F.C., Ulhasnagar, District-Thane in order to cause harassment and mental torture to the Applicant and her family members. He submitted that in the meanwhile, husband of the Applicant Sunil Manaji Patil has filed a Petition for seeking divorce bearing Marriage Petition No.397 of 2023 in the Court of learned Jt. Civil Judge, Senior Division, Kalyan, District-Thane against the present Applicant and a learned Single Judge [Abhay Ahuja, J.] by Order dated 12th December 2023 passed in Misc. Civil Application No.383 of 2023 has transferred the said Marriage Petition No.397 of 2023 filed in the Court of learned Jt. Civil Judge, Senior Division, Kalyan, District-Thane to the Court of learned Civil Judge, Senior Division, Islampur, District-Sangli. He submitted that the Applicant is a young woman, aged 28 years and she is a house-wife and residing along with her parents at Village Aarala, Taluka-Shirala, District-Sangli. He submitted that the Respondent i.e. mother-in-law has filed the D.V. proceedings in the Court of learned J.M.F.C., Ulhasnagar, District-Thane on 9th

December 2022 as a counterblast to the D.V. proceedings filed by the Applicant in the Court of learned J.M.F.C., Shirala, District-Sangli on 19th October 2022. He submitted that in order to cause harassment and mental torture to the Applicant and her family members, the said D.V. proceedings in the Court of learned J.M.F.C., Ulhasnagar, District-Thane were filed by the Respondent i.e. mother-in-law against the Applicant and 12 other family members of the Applicant. He submitted that distance between the said Village-Aarala, District-Sangli and Ulhasnagar, District-Thane is about 350 k.m. and it takes more than 10-12 hours journey. All these grounds are set out in the Criminal Application filed under Section 407 of the Code of Criminal Procedure, 1973. In spite of service, the Respondent has failed to remain present.

5. Mr. Hartalkar, learned Counsel submitted that the notice sent through R.P.A.D. has returned back with remark "Party Left". However, he submitted that the Respondent has been served on the WhatsApp and also on Email of the husband Sunil Manaji Patil. He states that although the Respondent is aware about the proceedings, she is not appearing in the matter. In any case, a learned Single Judge has already transferred the divorce proceedings from the Court of learned Jt. Civil Judge, Senior Division, Kalyan, District-Thane to the Court of learned Civil Judge, Senior Division, Islampur, District-Sangli. The factual

position on record clearly shows that the Applicant is residing in Village Aarala, Taluka-Shirala, District-Sangli and the D.V. proceedings which are subject matter of this Criminal Application are filed in the Court of learned J.M.F.C., Ulhasnagar, District-Thane and the distance between Village-Aarala, District-Sangli to Ulhasnagar, District-Thane is more than 350 k.m. Therefore, the case is made out to transfer the D.V. proceedings pending in the Court of learned J.M.F.C., Ulhasnagar, District-Thane to the Court of learned J.M.F.C., Shirala, District-Sangli.

6. The Criminal Application is allowed in terms of prayer clause (a), which reads as under:-

“(a) That this Hon’ble High Court be pleased to transfer the Domestic Violence (D.V.) Application No.351/2022, U/Sec. 12, 18, 19, 22 and 23 of the Protection of Women From Domestic Violence Act, 2005, pending in the Court of Jt. Civil Judge (J.D.) and J.M.F.C., Ulhasnagar, Dist. Thane, to the Court of J.M.F.C., at Shirala, Dist. Sangli, to try, entertain and decide the same.”

7. The Criminal Application is allowed and disposed of, accordingly.

[MADHAV J. JAMDAR, J.]