

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISCELLANEOUS CIVIL APPLICATION NO.25 OF 2022**

Asim Liyaquat Ali Sayyed and ors.	...	Applicants
versus		
Sara (Malekha) Asim Sayyed and anr.		Respondents

Mr. Dormaan J. Dalal, Advocate for the Applicants.

Mr. Siddhant H. Deshpande i/b. Mr. Tushar Chavan, Advocate for the Respondents.

CORAM : SHIVKUMAR DIGE, J.

DATE : 26th FEBRUARY, 2024.

P.C. :

1. By this application, the applicants are seeking transfer of Criminal M.A.No.114 of 2020 and Criminal M.A.No.112 of 2020 filed by respondent No.1, which are pending before the Judicial Magistrate, First Class at Kadegaon, District-Sangli under Muslim Women (Protection of Rights on Divorce) Act, 1986 and the provisions of Domestic Violence Act, 2005, to Family Court at Pune or Judicial Magistrate, First Class, at Pune.

2. It is the contention of learned counsel for the applicants that respondent No.1-wife has arrayed the family members of applicant No.1-husband as party in the said proceedings. Applicant Nos.4 and 5 are more than 70 year old. They stay at Junnar, District – Pune, they are

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finding it difficult to attend the Court's dates at Kadegaon, District-Sangli, which is around 230 kilometers away from Junnar. Learned counsel further submitted that respondent No.1 has filed an application for maintenance under Section 125 of the Cr.P.C., which is pending before the Family Court at Pune. He submitted that applicants stays at Pune. Hence, requested to transfer the proceedings pending before the Judicial Magistrate, First Class at Kadegaon to Family Court at Pune.

3. It is the contention of learned counsel for the respondents that application under Section 125 of the Cr.P.C. was filed in the year 2015. At that time, father of respondent No.1 was working in Pune. Now he has retired and he is settled in Sangli. Learned counsel further submitted that respondent No.1 stays with her 10 year old daughter at Sangli.. It would be inconvenient for her to attend the Court's dates at Pune, if the matter is transferred. An application under Section 125 of Cr.P.C. is for execution. Learned counsel further submitted that applicant Nos.4 and 5 can file application for permanent exemption and rest of the applicants can appear through video conferencing as respondent No.1 cannot come to Pune due to education of her daughter. Hence, requested to reject the application.

4. I have heard both learned counsel. Respondent No.1 stays with her 10 year old daughter at Sangli. The distance between Sangli and Pune is more than 200 kilometers.. Applicant Nos.4 and 5 can file application for permanent exemption before the concerned Court. The

said Court can decide the said application on its own merits. It is settled principle of law that while considering the transfer petition, the Court has to consider the convenience of the wife over the husband. When application was filed by respondent No.1 for maintenance, at that time, her father was working in Pune. Now, he has retired and he is settled in Sangli. This application is for execution of maintenance amount. Hence, it cannot be said that, the application filed by respondent No.1 which is pending in Sangli District can be transferred to Family Court at Pune.

5. In view of above, I pass following order :

1. The application is rejected.
2. Applicant Nos.1, 2 and 3 can file application for appearance through video conferencing before the concerned Court. The said Court shall decide the said application on its own merit.
3. Applicant Nos.4 and 5 is at liberty to file application for permanent exemption before the concerned Court. The said Court shall decide the said application on its own merit.

The application stands disposed of.

(SHIVKUMAR DIGE, J.)