



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISCELLANEOUS CIVIL APPLICATION NO. 474 OF 2024

Vivek K. Dhadha

Presently Residing at
2nd Floor, Alcazar Building
13, N. Gamadia Road,
Breach Candy, Mumbai – 400 026.

...Applicant

Vs.

Priyanka Dhadha

Presently Residing at
2nd Floor, Alcazar Building
13, N. Gamadia Road,
Breach Candy, Mumbai – 400 026.

...Respondent

Mr. Vikramaditya Deshmukh i/by Ms. Sapna Rachure	Advocate for the Applicant
Mr. Satyaram R. Gaud	Advocate for the Respondent

CORAM : S. M. MODAK, J.

DATE : 18th OCTOBER 2024

P. C. :-

1. Heard learned Advocate for the Applicant-Husband and learned Advocate for the Respondent-Wife.

2. The husband wants transfer of the DV case from the Court of Metropolitan Magistrate, Girgaon to the Family Court at Bandra. The proceedings pending before both the Courts are initiated at the instance of the wife. One is domestic violence proceeding and another is divorce petition.

3. Admittedly, in both the proceedings, no interim order is passed. There is much emphasis on asking on similar interim reliefs in both the proceedings. My attention is invited to prayers on page no. 104 which are interim in nature made in domestic violence case and interim prayers made before the Family Court on page no. 233. It is true that many of the prayers are similar.

4. Learned Advocate for the Husband relied upon the observations in case of *Khanjan Hitendra Jasani Vs. Krupali Khanjan Jasani and Anr.* passed by this Court in Misc. Civil Application No. 58 of 2024, on 04.09.2024. I have read those observations. On the basis of the observations made by the Hon'ble Supreme Court in case of *N.C.V. Aishwarya Vs. A. S. Saravana Karthik Sha*¹, it is true that the Hon'ble Supreme Court has considered the commonality of the reliefs sought in

1 AIR 2022 SC 4318

both these proceedings. Even learned Single Judge in case of **Khanjan Hitendra Jasani (supra)** has also considered the nearness of Girgaon and Bandra Court. Learned Single Judge allowed the application of the husband in that case.

5. As against this, transfer is opposed for the reason, the wife can be sought both the remedies and up till now, no interim orders are passed.

6. There is an emphasis on two more proceedings filed by the wife. One is for taking an action for perjury. This is in respect of documents filed by the husband in Domestic violence case, and Another is the protest petition filed by the wife against the Summary report sent by the Police in complaint under Section 498-A of the Indian Penal Code. He relied upon the observations in case of **Vaibhav Prabhakar Todankar Vs. Rashmi Vaibhav Todankar** passed by this Court in Misc. Civil Application No. 81 of 2024, on 19.09.2024. The same learned Judge has adjourned hearing of the transfer application for the reason that interim relief application is pending.

7. It is true that the wife is having simultaneous right to resort proceeding under various Acts. It is also true that reliefs granted in one proceeding are also considered by another Court. It is also true that

interim reliefs before the D.V. Court can also be considered by the Family Court. But I am not inclined to accept the prayer considering the factual situation. Ultimately, the Criminal Court dealing with perjury case required to go thorough the documents which are filed in Domestic Violence case. The Court is not aware about exact nature of the perjury. Sometimes, original documents need to be seen. If matter is transferred to the Family Court, it will be troublesome for that Criminal Court to look into these documents.

8. For case under Section 498-A of the Indian Penal Code, the transfer cannot be opposed.

9. For the above reasons, I am not inclined to accept the prayer for transfer.

10. Misc. Civil Application is dismissed.

[S. M. MODAK, J.]