

HARSHADA H. SAWANT  
(P.A.)

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

**CRIMINAL APPLICATION NO.194 OF 2024**

Sushil Harshad Magodia

.. Applicant

**Versus**

Mayuri R Bulsara and Anr.

.. Respondents

.....

- Ms. Vaijayanti R. Kalekar, Advocate for Applicant.
- Mr. Chandrakant D. Mali, APP for Respondent No.2 – State of Maharashtra.

.....

**CORAM : MILIND N. JADHAV, J.**

**DATE : OCTOBER 09, 2024**

**P.C.:**

**1.** Heard Ms. Kalekar, learned Advocate for Applicant and Mr. Mali, learned APP for Respondent No.2 – State of Maharashtra.

**2.** This Criminal Application seeks transfer of Domestic Violence Case No.378/DV/2021 filed by Respondent No.1 – wife and pending in the Metropolitan Magistrate Court No.24, Borivali to the Family Court, Bandra.

**3.** Ms. Kalekar would draw my attention to the fact that Family Court, Bandra is already seized of hearing another companion Marriage Petition filed by the husband for restitution of conjugal rights. At the outset, she would draw my attention to the order dated 13.09.2024 where appropriate directions were given to the Applicant to issue fresh private notices appropriately. I have perused the order. She has placed on record Affidavit-of-Service dated 13.09.2024 which

confirms that Respondent No.1 has been served by speed post. In addition thereto she would also place on record original acknowledgment by learned Advocate for Respondent No.1 of having received copy of the Application alongwith copy of previous order dated 13.09.2024 and that acknowledgment is dated 19.09.2024. She would inform that the proceedings before the Trial Court were on 19.09.2024 on which date the copy of order dated 13.09.2024 alongwith copy of Application was duly served. The said acknowledgment is taken on record and marked 'X' for identification. Considering the Affidavit-of-service and aforesaid there can be no impediment in considering the Application in accordance with law since this Court cannot wait and protract the hearing of the present Application in the interest of justice.

**4.** As seen above Applicant seeks transfer of proceedings under the Protection of Women from Domestic Violence Act, 2005 (for short '**D.V. Act**') filed by Respondent No.1 – wife which is pending before Metropolitan Magistrate, Borivali where twin Marriage Petitions rather cross Marriage Petitions filed by parties are pending hearing before Family Court, Bandra, Mumbai,

**5.** I am inclined to accept the submissions made by Ms. Kalekar in order to avoid multifarious trials with respect to interdependent issues between the parties which would cover proceedings under the

said Act as also Marriage Petitions and to avoid conflict of decisions and multiple trials and hence the proceedings filed under the said Act are required to be transferred.

**6.** In the present case, proximity of distance would not be a question as the proceedings are transferred within Mumbai itself. In that view of the matter and the imprimatur of the Supreme Court in the case of **N.C.V. Aishwarya Vs. A. S. Saravana Karthik Sha<sup>1</sup>** and powers of this Court under Section 407 of Code of Criminal Procedure, 1973, being *pari materia* with respect to Section 24 of the Code of Civil Procedure, 1908, while considering such an Application for transfer, there can be no impediment in allowing the Application in view of the above reasons. Criminal Application stands allowed in terms of prayer clause (A) which reads thus:-

*“A) That this Hon’ble Court be pleased to pass order and directions to transfer the Domestic Violence Act case No.378/DV/2021 pending before the Addl. Chief Metropolitan Magistrate Court, Court Room no. 24, Borivili, to Family Court Bandra, Mumbai, Court No. 4 where the Petition A 3570 of 2021 is pending for hearing.”*

**7.** With the above directions, Criminal Application is allowed and disposed.

H. H. SAWANT

[ MILIND N. JADHAV, J. ]

HARSHADA  
HANUMANT  
SAWANT  
Digitally signed  
by HARSHADA  
HANUMANT  
SAWANT  
Date:  
2024.10.09  
18:35:03  
+0530

---

1 AIR 2022 SC 4318.