

Prasad Rajput
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 470 OF 2024

Gauri Prakash Patil

.. Applicant

Versus

State of Maharashtra and Anr.

.. Respondents

.....

- Ms. Swapna Kode, appointed Advocate for Applicant.
- Ms. Sangeeta E. Phad, APP for the State.

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CORAM : MILIND N. JADHAV, J.

DATE : DECEMBER 18, 2024

P.C.:

1. Heard Ms. Kode, learned Advocate appearing for Applicant and Ms. Phad, learned APP for the State.

2. Present Application seeks transfer of proceedings enumerated and stated in prayer Clause (a) and (b) of the Application from learned JMFC Court, Alibaug to Family Court, Pune. Additionally, the Applicant seeks clubbing of the proceedings so that both the proceedings can be heard and decided together. Learned Advocate would submit that Applicant is the wife who is presently residing in Hadapsar, Dist. Pune with her parents and daughter aged 12 years.

2.1. She would submit that the proceedings of which transfer is sought are matrimonial disputes between the Applicant and the Private Respondent. She would submit that there are several orders passed by the learned Court regarding payment of maintenance

amount against Respondent No.2 and there is an outstanding arrears of an amount of Rs. 19 lacs approximately as on date regarding monthly maintenance only.

2.2. She would submit that proximity of distance between two destinations would cause grave inconvenience to the Applicant-wife if she is required to travel all the way to Alibaug to attend the aforementioned proceedings from Pune. That apart she would submit that Applicant would require the accompaniment of an elder parent along with her to give her company and would also entail financial expenditure for undertaking the journey and visit to attend Court proceedings in the JMFC Court at Alibaug and the District Court. That apart, she would also face the ignominy of providing care and support for her minor daughter either in Pune or will have to take her along with her all the way to Alibaug. That apart she would submit that schooling of her daughter would unduly be hampered. The grounds are enumerated in paragraph No. 10 onwards of the Application.

2.3. She would submit that D.V. Application filed by the Applicant has been disposed of by directing the Respondent-husband to pay compensation amount of Rs. 5,00,000/- apart from the maintenance amount of Rs. 25,000/- payable per month to be paid to the Applicant and her daughter. Hence, she would submit that, as on date apart from arrears of the maintenance amount, the amount of Rs.

5,00,000/- has also not been paid by Respondent No.2 and the total outstanding dues are therefore Rs. 24,00,000/- as on date.

3. I have perused the grounds. Considering the imprimatur of the Supreme Court in the case of *N.C.V. Aishwarya Vs. A. S. Saravana Karthik Sha*¹ and more specifically in paragraph Nos. 9 to 11 of the said decision, there can be no impediment in considering the difficulty encountered by the Applicant in the present Application and allowing the same.

4. It is seen that the twin prayers of the Applicant are completely justified as the Applicant seeks not only transfer of the proceedings but also clubbing of the said proceedings before the Family Court in Pune and a joint Trial and decision in the same. This is clearly to avoid multiplicity and multifarious proceedings before different Courts and conflict of decisions by different Courts on similar issues which will be more or less common and identical in the said proceedings, but in different Courts.

5. In view of the above, an arguable case is clearly made out by the learned Advocate for Applicant. Hence, issue notice to the Private Respondent. Hamdast permitted. Private notice permitted by any permissible mode of service. Respondent No.2 shall be served with a copy of Application and copy of this order. Learned Advocate for

¹ AIR 2022 SC 4318.

Applicant is directed to place on record affidavit of service on the next date. Respondent No.2 is directed to remain present on the next adjourned date in Court. It is clarified that if the Private Respondent does not remain present despite service, this Court shall be constrained to pass appropriate orders in the Application to secure the presence of Respondent No.2 by issuing bailable or non-bailable warrant against him. Learned APP waives service on behalf of State.

6. In view of the above, it is directed that the Trial Court seized of the matters of which transfer is sought shall defer the hearing of the said proceedings i.e. Criminal Miscellaneous Application No. 623 of 2024 and Criminal Appeal No. 27 of 2023 until the present transfer Application is decided by this Court.

7. Stand over to **15th January, 2025.**