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44-APPLN-1682-2024

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

44 CRIMINAL APPLICATION NO. 1682 OF 2024

Ujma Jabin D/o Shaikh Abdul Bari After Marriage Ujma Jabin D/o Quazi
Waliuddin
VERSUS
Waliuddin Hanzuddin Quazi And Others

Ms. Sangita M. Sonpethkar, Advocate for Applicants.
Mr. Rehan Khan h/f Mr. G. R. Syed, Advocate for Respondent.

WITH
CRIMINAL APPLICATION NO. 2602 OF 2024

Waliyoddin s/o. Hafizoddin Quazi and Ors.
VERSUS
Uzma Jabin w/o. Quazi Waliyoddin

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Mr. Rehan Khan h/f Mr. G. R. Syed, Advocate for Applicant.
Ms. Sangita M. Sonpethkar, Advocate for Respondent.

CORAM : KISHORE C. SANT, J.
DATE : 29th JULY 2025.

PC :-

1. At the outset, the learned Advocate for the applicant seeks leave to withdraw the application to the extent of husband. Leave granted. Application is, therefore, considered only to the extent of Applicant Nos.

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2 to 5.

2. Both the proceedings arise out of the same complaint filed under the provisions of Protection of Women From Domestic Violence Act, pending in the Court of learned Judicial Magistrate First Class, Ardhapur Dist. Nanded, bearing Application (PWDVA) No.12 of 2023.

3. The applicants in Criminal Application No.2602 of 2024 have approached this Court for quashing of the said proceedings, whereas the Criminal Application No.1682 of 2024 is filed by the complainant seeking transfer of the proceedings from the Court of learned JMFC, Ardhapur, to the Court of learned JMFC at Aurangabad.

4. The wife filed a complaint against her husband (original respondent No.1). The original respondent No.2 and 3 are the brother-in-law, respondent No.4 is the sister-in-law and respondent No.5 is the mother-in-law of the complainant.

5. Heard both the parties.

6. The learned Advocate for the applicant in Criminal Application No.2602 of 2024 vehemently argued that, looking to the complaint as it is, it is seen that the allegations are omnibus and vague. No specific role is attributed, or no any instance of domestic violence is alleged any of the applicants. Unless the instance of domestic violence is shown, no any other relief can be granted under the Act. He thus prays for quashing of the proceeding.

7. The learned Advocate for the respondent-wife in Criminal Application No.2602 of 2024 vehemently opposed the application. She submits that after the marriage, the property in the name of husband is transferred to the share of brother-in-law and other members, which clearly shows that the intention is to deprive the wife from the property. After the marriage, she conceived and was, therefore, admitted to the hospital at Aurangabad, none of the persons from the husband's side came to see her and her child after delivery. This itself is an act of cruelty. She also produced on record the discharge card showing that she was suffering from chronic hypertension and hypothyroidism. She thus

prays for rejection of the application.

8. In support of her submission, she relied upon following judgments:

- (i) *Gopal Chakraborty and Ors. Vs. The State and Ors.*¹
- (ii) *The Delhi Development Authority New Delhi Vs. Smt. Lila D. Bhagat and Ors.*²
- (iii) *Suraj Theatre and Ors. Vs. Smt. Kakarla Bhorathe and Anr.*³;
- (iv) *State of Bihar Vs. Sri Rajendra Agrawalla*⁴;
- (v) *State of Delhi Vs. Gyan Devi and Ors.*⁵

9. In all these judgments, the Courts have considered the consideration for exercise of powers under Section 482 of Cr.P.C. It is held that when the questions of disputed facts are involved, the exercise of jurisdiction under Section 482 of Cr.P.C. is not desirable, and no proceeding can be quashed where adjudication is required. There is no dispute about the said proposition. In the present case, what this Court has to see is whether, reading the complaint as it is, a case is made out

1 1996 CRI. L. J. 3358

2 AIR 1975 SC 495

3 1998 CRI. L. J. 43

4 1996 CRI. L. J. 1372

5 2001 CRI. L. J. 124

to continue the proceeding against all the respondents.

10. The learned Advocate for the Applicants relied upon the order passed by this Court in Criminal Application No.1575 of 2025 wherein the proceedings under the provisions of Domestic Violence Act were quashed and set aside to the extent of applicant therein.

11. This Court, for the purpose of deciding the application for quashing, has considered the complaint filed and pending before the learned JMFC, Ardhapur. No doubt, there are allegations against the husband. So far as the allegation against Respondent Nos.2 to 5 before the trial Court are concerned, there is no specific allegation made by the wife. Not visiting a child in the hospital after delivery cannot in any way be considered to be an act of cruelty or harassment. In the application though at several places, she has stated that she was harassed by all the applicants, no specific instance is given. Nothing is stated about the harassment. No dates or times are mentioned, even by approximation. This Court is, therefore, inclined to allow the Criminal Application

No.2602 of 2024 to the extent of applicant Nos. 2 to 5. Criminal Application No.2602 of 2024 stands allowed to the extent of applicant Nos. 2 to 5. The proceeding pending against the respondent Nos. 2 to 5 are quashed and set aside.

12. So far as transfer proceeding i.e. Criminal Application No.1682/2024 is concerned, the wife is presently residing at her parent's house as she has been driven out of her matrimonial home. Considering that the wife is staying at Aurangabad, and the distance between the two places is around 300 k.m., this Court finds that it would be in the interest of justice, to transfer the proceeding from Learned JMFC, Ardhapur to learned JMFC at Aurangabad. The application is, therefore, allowed in terms of prayer clause (B).

13. After transferring the proceeding, the applicant shall not seek unnecessary adjournments. In case the Trial Court finds that the adjournments are unnecessarily sought, the Trial Court may deal with such application, so as to compensate the respondent-husband, if he

personally remains present.

14. The respondent-husband is at liberty to request the concerned Court for appearing through video conference.

15. With this, criminal applications stand disposed off.

[KISHORE C. SANT, J.]