

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISCELLANEOUS CIVIL APPLICATION NO. 67 OF 2025

ANAND
SUDHAKAR
SUDAME

Harshada Dattatraya Sapkal

..Applicant

Versus

Dattatraya Pandurang Sapkal

..Respondent

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Date: 2025.11.27
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Mr. Irfan Shaikh, Advocate, for the Applicant

Mr. Dilip Bodake a/w. Ms. Shraddha Pawar, Advocates, for the
Respondent

CORAM : RAJESH S. PATIL, J.

DATE : 26.11.2025

P C.

1. Mr. Bodake, learned Counsel for the Respondent – husband submits that the present Application is not maintainable, as the Applicant is seeking transfer of her D. V. proceedings filed before the learned JMFC, Karad to the learned JMFC, Thane. He submits that the present proceedings is filed under Section 24 of the Code of Criminal Procedure, 1973 (“**CrPC**”). He submits that the proceedings filed by the wife under the Domestic Violence Act, 2005 (“**D V ACT**”) are originally of criminal nature as they are filed under Section 12 of the D. V. Act. He submits that if the said proceedings are decided, the Appeal would lie before the Sessions Court. So also quashing are filed under Section 482 of the Cr.PC. - The Bhartiya Nagarik Suraksha Sanhita, 2023). He also

relied upon the Judgment of the Apex Court passed by in Criminal Appeal No. 2688 of 2025 with Criminal Appeal No. 2689 of 2025 dated 19.05.2025. Paragraph 39 of the said Judgment which reads thus :-

“39. To conclude, the view taken in the impugned order of the High Court that a petition under Section 482 of the CrPC for challenging the proceedings emanating from Section 12(1) of the DV Act, 2005 is not maintainable, is not the correct view. We hold that High Courts can exercise power under Section 482 of CrPC (Section 528 of the BNSS) for quashing the proceedings emanating from the application under Section 12(1) of the DV Act, 2005, pending before the Court of the learned Magistrate. However, considering the object of the DV Act, 2005, the High Courts should exercise caution and circumspection when dealing with an application under Section 12(1). Normally, interference under Section 482 is warranted only in the case of gross illegality or injustice.”

2. So also he relied upon the Judgment of the Kerala High Court in the case of ***Baiju vs. Latha***, reported in ***2011 4 Crimes (HC) 229***. He has also relied upon Section 28 of the Domestic Violence Act. The said Section 28 reads as under :-

“28. Procedure.—(1) Save as otherwise provided in this Act, all proceedings under sections 12,18, 19, 20, 21, 22 and 23 and offences under section 31 shall be governed by the provisions of the Code of Criminal Procedure, 1973 (2 of 1974). (2) Nothing in sub-section (1) shall prevent the court from laying down its own procedure for disposal of an application under section 12 or under sub-section (2) of section 23.”

3. He submits that probable remedy for the Applicant seeking transfer would be under Section 447 of the BNSS (earlier under

Section 407 of the Cr.Pc.).

4. Mr. Shaikh, learned Counsel for the Applicant seeks a short accommodation in order to take instructions from his client.

5. By consent, stand over to **02.12.2025**.

6. The matter to come up on board under the caption "*For Directions*".

(RAJESH S. PATIL, J.)