

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
APPLICATION NO. 166 OF 2025

Kiran Pandurang Kamble ..Applicant
Versus
State of Maharashtra & Anr ...Respondents

Ms. Chanchal Singh, with Monal Thokale, i/b R.V. Sankpal &
Associates, for the Applicant
Ms. Poonam P. Bhosale, APP, for Respondent No.1-State.
Ms. Nilima C. Sarvagod, for Respondent No.2.

CORAM: N. J. JAMADAR, J.
DATED : 25th AUGUST 2025

ORDER :

1. This is an Application for transfer of Criminal Misc. Application No. 1651 of 2022 from the Court of Additional Chief Judicial Magistrate, Nashik to the Court of Judicial Magistrate, Bandra.

2. The Respondent No.2 is the son of the Applicant. The marriage of the Applicant was solemnized with Smt. Sharda Kamble on 15th July 2005. The Respondent No.2 was born out of the said wedlock. In the wake of the matrimonial discord, the Applicant and his quondam wife had filed the Marriage Petitions. Smt. Sharda Kamble had also filed an Application for grant of maintenance under Section 125 of the Code of Criminal Procedure 1973. Eventually, the disputes between the

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Applicant and his quondam wife were amicably resolved and a decree of divorce by mutual consent came to be passed on 6th March 2010. The Applicant had paid a sum of Rs. 1,50,000/- towards permanent alimony. The mother of Respondent No.2 had agreed not to claim any maintenance for the Respondent No.2 and look after the education and maintenance of the Respondent No.2.

3. The Respondent No.2, while he was 16 years of age, however, filed an Application, being Criminal Misc. Application No. 1651 of 2022, seeking maintenance from the Applicant. The Application was resisted by the Applicant by filing Reply. The said proceeding is now posted for recording of evidence.

4. The Applicant preferred this Application seeking transfer of the said proceeding on the ground that the Applicant is suffering from cancer. The Applicant is required to take regular treatment. Most of the Applicant's salary is spent for the said treatment. The Applicant is thus not in a position to attend the proceeding at Nashik, on account of physical infirmity and financial constraints. Therefore, the proceeding be transferred to the Court of Judicial Magistrate at Bandra.

5. Since the Respondent No.2 did not appear despite service of notice, Ms. Nilima Sarvagod, the learned Counsel, was appointed to espouse the cause of Respondent No.2.

6. I have heard Ms. Singh, the learned Counsel for the Applicant, Ms. Bhosale, the learned APP, for Respondent No.1. and Ms. Sarvagod, the learned Counsel for the Respondent No.2.

7. Ms. Singh submitted that the Applicant is suffering from cancer. The Applicant is required to take continuous follow up treatment. Attention of the Court was invited to the reports of the diagnostic tests and certificates issued by Medical Officers to lend support to the submission that the Applicant has been suffering from cancer. In these circumstances, according to Ms. Singh, the Applicant would suffer extreme inconvenience and hardship, if the Applicant is required to attend the proceeding at Nashik.

8. Ms. Sarvagod, the learned Counsel for the Respondent No.2, opposed the prayer for transfer. It was submitted that the Respondent No.2, a young boy, would suffer more inconvenience and hardship if the proceeding is transferred from the jurisdictional Court.

9. As the primary ground for seeking transfer of the proceeding is the disease the Applicant is stated to be suffering from, I have given anxious consideration to the submissions and carefully perused the material on record. The diagnostic test reports and medical certificates, indicates that the Applicant is a known case of metastatic squamous cell carcinoma of unknown primary. The disease was diagnosed in the year

2019. The Applicant has undergone surgery and, thereafter, follow up treatment.

10. The latest report of FDG PET-CT dated 19th January 2023 and whole Body PET CT dated 12th November 2024, however, do not indicate that there is any significant prognosis of the disease. The impression in the report dated 12th November 2024 deserve to be extracted.

“IMPRESSION:

Known case of metastatic squamous cell carcinoma of unknown primary, Post-surgery, chemoradiation, and targeted therapy on follow-up.

Comparisons made with PET-CT scan dated 27.05.24.”

1. No interval change in metabolically inactive right parapharyngeal adenopathy (Hopkin’s score=1).- s/o stable disease.

No new metabolically active lesion is seen elsewhere to suggest recurrent or metastatic disease.”

11. The aforesaid report makes it abundantly clear that the Applicant is a case of stable disease. There was no evidence to suggest recurrent or metastatic disease.

12. Thus, the submission on behalf of the Applicant that on account of the disease, the Applicant would find it extremely inconvenient and onerous to attend the proceeding at Nashik, cannot be readily accepted. The concern of the Applicant can be taken care of by directing the

learned Additional Chief Judicial Magistrate, Nashik to allow the Applicant to participate in the proceeding through video conferencing.

13. I find substance in the submission of the learned Counsel for the Respondent No.2 that the transfer of the proceeding from Nashik to Mumbai, would operate to the grave prejudice of the Respondent No.2 who is a teenage boy. The Respondent No.2 would find it extremely inconvenient to effectively prosecute the proceeding in the Court at Mumbai.

14. Hence the following order:

: O R D E R :

- (i) The Application stands rejected.
- (ii) The Applicant is at liberty to appear before the learned Judicial Magistrate, Nashik, through video conferencing.
- (iii) The learned Judicial Magistrate, Nashik, who is seized with Criminal Misc. Application No. 1651 of 2022, is requested not to insist for the physical presence of the Applicant, unless absolutely warranted.

No costs.

[N. J. JAMADAR, J.]