



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION NO.107 OF 2024

(Shivraj s/o Laxmanrao Kale and ors. Vs. Sau. Shivani w/o Shivraj Kale)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. P.R. Agrawal, Advocate for the applicants.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- FEBRUARY 10, 2025.

Heard.

2. By this application, the applicant is seeking transfer of criminal proceeding bearing PWDVA Case No.72 of 2023 filed under the provisions of the Protection of Women from Domestic Violence Act, 2005 pending in the court of Joint Civil Judge, Junior Division and Judicial Magistrate First Class, Pusad to the Chief Judicial Magistrate, Kolhapur.

3. Learned Counsel for the applicant submitted that the marriage of the applicant and non-applicant was performed and after marriage, she resumed cohabitation with the present applicant. Their marriage was performed on 30/04/2007. The non-applicant has also begotten one daughter and one son. Thereafter, there was a discord between them and present non-applicant has filed the application for custody of both the children in the court of District Judge, Kolhapur wherein she has filed the criminal application under the Protection of Women from Domestic Violence Act, 2005 at Pusad. In fact, she never stayed at

Pusad. Only to harass the present applicant, this application is filed. He invited my attention towards the communication obtained from Dr. D.Y. Patil Pratishthan's College of Engineering, Salokhenagar, Kolhapur which shows that the non-applicant is serving as an Associate Professor, Dean Research at Kolhapur. Thus, he submitted that she is staying in Kolhapur. Her date of joining is 02/05/2023. Thereafter, nothing is brought on record to show that she is not residing at Kolhapur. Even she has filed an application for custody of both the child wherein her address was shown as at Dr. D.Y. Patil Pratishthan's College, Salokhenagar, Kolhapur. Thus, considering all these aspects and considering the fact that the non-applicant has filed an application only to harass the present applicant. Other application filed by the non-applicant is pending in the District Court, Kolhapur and now it is likely to be transferred to the Family Court, Kolhapur.

4. Notice of the said application though served on the non-applicant she failed to appear.

5. Perused the application as well as the record, which shows that the non-applicant is serving as Associate Professor, Dean Research in Dr. D.Y. Patil Pratishthan's College of Engineering at Kolhapur. The address shown by her in another application is also of a Kolhapur. As far as her address at Pusad is concerned which is given of her parents address but she has not come before the Court to show that she is residing at Pusad.

Thus, at this stage, there is substance in the contention that the application is filed only to harass the applicant. Considering the fact that other application is already pending at Kolhapur. It would be convenient for both the parties to attend the proceeding at Kolhapur. Admittedly, the convenience of the wife in matrimonial proceeding is to be looked into but considering the peculiar facts of the present case, the application deserves to be allowed. Accordingly, I proceed to pass the following order:

(i) The application is allowed.

(ii) The criminal proceeding PWDVA Case No.72/2023 pending on the file of Joint Civil Judge, Junior Division and JMFC, Pusad be transferred to the Chief Judicial Magistrate, Kolhapur for disposal.

(iii) The Joint Civil Judge, Junior Division and JMFC, Pusad shall send the record and proceedings of PWDVA Case No.72/2023 to the Chief Judicial Magistrate, Kolhapur.

(iv) The parties shall remain present before the Chief Judicial Magistrate, Kolhapur on 28/02/2025.

6. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)