



**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

55 MISC.CIVIL APPLICATION NO. 166 OF 2025

ISHWARLAL GIRDHARLAL POPALI AND ANOTHER

VERSUS

SANGITA AJIT POPALI

....

Ms Karishma Sanjay Sarin, Advocate for the Applicants

Mr. Balraj P. Pande, Advocate for the Respondent

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CORAM : Y. G. KHOBRAGADE, J.

DATE : March 09, 2026

PER COURT :-

1. Heard the learned counsel for the applicants and the learned counsel for the non-applicant.

2. By the present application under Section 407 of the Code of Criminal Procedure, the applicants are seeking transfer of Criminal Application No.3878 of 2022 from the file of learned Chief Judicial Magistrate, Akola to the file of learned Chief Judicial Magistrate, Dhule.

3. On face of record, it prima facie appears that the present non-applicant has filed Criminal Application No.3378 of 2022 (Sangita Ajit Popali Vs. Anjanabai Ishwarlal Popali and

others) under Section 31 of the Protection of Women from Domestic Violence Act and prayed for protection against the present applicants and the said proceeding is pending before the learned Chief Judicial Magistrate, Akola.

4. The learned counsel for the applicants canvassed that the informant Harishkumar Ishwarlal Popali, had lodged F.I.R. No.216 of 2019 with Dhule City Police Station on 05.06.2019, alleging that Shri Ajit Ishwarlal Popali, the brother of the present applicant No.4 and the husband of present non-applicant had committed suicide on 30.05.2019 by leaving suicide note in the name of present applicant and her father Amarlal Sonumal Katariya. Accordingly, the offence is registered against the present non-applicant and her father for the offence under Section 306 read with 34 of I.P.C. and trial of said crime is pending before the learned Sessions Court, Dhule. So also, the present non-applicant is regularly attending the Sessions trial. However, she has filed a proceeding bearing Criminal Application No. 3878 of 2022 before the learned Chief Judicial Magistrate, Akola, just to harass the present applicants. It is further canvassed that applicant Nos. 1, 2 and 3 are 80, 78 and 66 years old, respectively, and other applicants except applicant Nos. 4, 5, 7, 8 to 13 and 16 to

17, are above 60 years old. Whereas, the non-applicant is aged about 45 years old well educated and she is already travelling from Akola to Dhule to attend the Sessions trial, prayed for transfer of Criminal Application No3878 of 2022 from the file of learned Chief Judicial Magistrate, Akola to the file of learned Chief Judicial Magistrate, Dhule. It is further canvassed that the applicants are ready and willing to pay transportation, lodging and boarding charges as may be permissible.

5. Per contra, the non-applicant has filed reply and strongly opposed the application. The learned counsel for the non-applicant canvassed that the present non-applicant is residing at Akola at her paternal house. After committing suicide by her husband and due to raising domestic violence, the non-applicant has filed Criminal Application No.3878 of 2022 under Section 31 of Protection of Women from Domestic Violence Act. Therefore, as per the provisions of Section 27 of the D.V. Act, confirmed the jurisdiction upon the Judicial Magistrate, First Class at Akola. So also, in earlier round of litigation, the present non-applicant had also filed Criminal Miscellaneous Application No.1814 of 2019 before the learned Judicial Magistrate, First Class, Akola. It is further canvassed that the

proceeding under Section D.V. Act is of civil quasi nature and there is no necessity for appearance of the applicants in the said proceeding on each and every date. However, the applicants can conduct the matter through their counsel and only on the day of their evidence any one can travel from Dhule to Akola. Therefore, prayed for rejection of the application.

6. Having regard to the submissions canvassed on behalf of both the parties, I have gone through the record. It is not in dispute that the marriage between the non-applicant and her husband Ajit, the son of applicant Nos. 1 and 2, was solemnized on 11.02.2009 as per the customs and rites prevailing in their society at Dhule. After marriage, the non-applicant cohabited with her husband in the joint family along with the present applicants at Dhule. However, subsequently, the relations between the non-applicant and her husband and his relatives, became strained. It is a matter of record that on 05.06.2019, Crime No.216 of 2019 was registered against the present non-applicant and her father with Dhule city police station for the offence punishable under Section 306 read with 34 of I.P.C. on premise of committing suicide by Ajit Ishwarlal Popali, the husband of the present non-applicant and son of the applicant Nos. 1 and 2,

because of mental and physical torture at the hands of present non-applicant on the basis of suicide note. It is also not in dispute that, the trial of Crime No.216 of 2019 is pending on the file of learned Sessions Judge, Dhule and the present non-applicant is attending the said proceeding by travelling from Akola. It is also not in dispute that the present non-applicant has filed Criminal Misc. Application No.1814 of 2019 under Section 12 of the D.V. Act before the Chief Judicial Magistrate, Akola.

7. Indeed, the learned Chief Judicial Magistrate passed an order below Exh.14 in Criminal Miscellaneous Application No.1814 of 2019 and granted interim maintenance. Further, the non-applicant again filed Criminal Application (PWDVA) No.3878 of 2022 and prayed for action against the present applicants for contravention of the protection order passed on 31.10.2020 below Exh.14 in Criminal Miscellaneous Application No.1814 of 2019.

8. The applicant Nos.1 to 17, who are relatives of the non-applicant's husband. The applicants have raised a grievance that most of the applicants are that they are more than 60 years of age. Therefore, it is very difficult and inconvenient for them to attend the

proceeding Criminal Application No.3878 of 2022 before the Chief Judicial Magistrate, Akola, from Dhule.

9. Considering the law laid down in the case of ***N.C.V Aishwarya V. A. S. Saravana Karthik Sha (Civil Appeal No.4894/2022)*** decided by the Hon'ble Supreme Court on 18.07.2022, wherein, in paragraph No.9, it is held as follows:-

"9. The cardinal principle for exercise of power under section 24 of the Code of Civil Procedure is that the ends of justice should demand the transfer of the suit, appeal or other proceeding. In matrimonial matters, wherever Courts are called upon to consider the plea of transfer, the Courts have to take into consideration the economic soundness of both the parties, the social strata of the spouses and their behavioural pattern, their standard of life prior to the marriage and subsequent thereto and the circumstances of both the parties in eking out their livelihood and under whose protective umbrella they are seeking their sustenance to life. Given the prevailing socio-economic paradigm in the Indian society, generally, it is the wife's convenience which must be looked at while considering transfer."

10. No doubt, while considering the transfer of any matrimonial proceeding from one Court to another, the convenience of the wife/female is required to be taken into consideration. However, in the present case, the non-applicant is already attending the trial before the Sessions Court, Dhule, in connection with Crime No.216 of 2019 registered for the offence punishable under Section

306 read with Section 34 of the I.P.C. The non-applicant has not denied the fact that she is attending the said Sessions trial from Akola by travelling approximately 300 kms. Therefore, if the non-applicant attends the proceedings under the D.V. Act before the Chief Judicial Magistrate, Dhule, no prejudice would be caused to her. Since the applicants have shown readiness and willingness to pay the required lodging, boarding, and travelling expenses, it would be just and proper to withdraw Criminal Application No.3878 of 2022 from the file of the learned Chief Judicial Magistrate, Akola, and transfer the same to the file of the learned Chief Judicial Magistrate, Dhule, for proper trial. However, the present applicants, who are non-applicants in Criminal Application No.3878 of 2022, shall bear the lodging, boarding, and travelling expenses of Rs.5,000/- on each and every date of hearing.

11. In view of the above discussion, I am inclined to grant the present application and proceed to pass the following order:

ORDER

- (i) The Miscellaneous Civil Application is allowed by invoking Section 407 of Cr.P.C.

- (ii) Criminal Misc. Application No.1814 of 2019 and Criminal Application No.3878 of 2022 are hereby withdrawn from the file of learned Chief Judicial Magistrate, Akola and both the proceedings are transferred to the file of learned Chief Judicial Magistrate, Dhule.
- (iii) The applicants shall pay Rs.5,000/- to the non-applicant towards lodging, boarding and travelling charges while attending the proceeding Criminal Misc.Application No.1814 of 2019 and Criminal Application No.3878 of 2022.
- (iv) The learned Sessions Court Dhule shall fix the schedule of trial of Sessions Case No.106 of 2021 arising out of Crime No.216 of 2019 on the day on which the schedule of Criminal Misc.Application No.1814 of 2019 and Criminal Application No.3878 of 2022, are fixed.
- (v) This order be communicated to both the Courts.
- (vi) Accordingly, the Miscellaneous Civil Application is disposed off.

[Y. G. KHOBRAGADE, J.]