



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPLICATION (APL) NO. 1083 OF 2025

(Amit Dattatraya Bandawar
Vs.
Mrunali w/o Amit Bandawar)

Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. Amit Khare, Advocate for the Applicant.

CORAM: URMILA JOSHI-PHALKE, J.

DATED : 23rd MARCH, 2026

1. By this Application, the Applicant is seeking transfer of P.W.D.V.A. Application No. 53/2021 pending before the 2nd Jt. Civil Judge Junior Division and Judicial Magistrate First Class, Gadchiroli to the Family Court-5, Nagpur.

2. Heard learned Counsel for the Applicant, who submitted that the Applicant and the Non-applicant got married to each other. They started residing at Nagpur and the Non-applicant even today is residing at Nagpur in the house property owned by the Applicant. There are two minor daughters out of the said wedlock. He submitted that, only to harass the present Applicant, the D.V. proceeding was filed at Gadchiorli under the provisions of the Protection of Women from Domestic Violence Act, 2005 by filing an Application No.53/2021. He submitted that, there is no dispute as far as

legal position is concerned that the convenience of the wife is to be seen but considering the intention behind filing of the Application though she is residing at Nagpur is to be taken into consideration. He invited my attention towards the postal endorsement, which shows that the notice of this Application is served on her at Nagpur on 26.09.2025. Thus, considering all these aspects, the Application deserves to be allowed.

3. Despite the service of notice, the Non-applicant failed to appear.

4. Section 24 of C.P.C. and Section 407 of Cr.P.C., are reproduced as under:

“Section 24 of CPC:

*24. **General power of transfer and withdrawal** -(1) On the application of any of the parties and after notice to the parties and after hearing such of them as desired to be heard, or of its own motion, without such notice, the High Court or the District Court may, at any stage--*

(a) transfer any suit, appeal or other proceeding pending before it for trial or disposal to any Court subordinate to it and competent to try or dispose of the same; or

(b) withdraw any suit, appeal or other proceeding pending in any Court subordinate to it; and

(i) try or dispose of the same; or

(ii) transfer the same for trial or disposal to any Court subordinate to it and competent to try or dispose of the same; or

(iii) re-transfer the same for trial or disposal to the Court from which it was withdrawn.

(2) Where any suit or proceeding has been transferred

or withdrawn under sub-section (1), the Court which [it thereafter to try or dispose of such suit or proceeding] may, subject to any special directions in the case of an order of transfer, either retry it or proceed from the point at which it was transferred or withdrawn

(3) For the purposes of this Section,-

(a) Courts of Additional and Assistant Judges shall be deemed to be subordinate to the District Court;

(b) "proceeding" includes a proceeding for the execution of a decree or order.

(4) The Court trying any suit transferred or withdrawn under this section from a Court of Small Causes shall, for the purposes of such suit, be deemed to be a Court of Small Causes.

(5) A suit or proceeding may be transferred under this section from a Court which has no jurisdiction to try it."

"Section 407 of Cr.P.C:

407. Power of High Court to transfer cases and appeals.-- *(1) Whenever it is made to appear to the High Court-*

(a) that a fair and impartial inquiry or trial cannot be had in any Criminal Court subordinate thereto, or

(b) that some question of law of unusual difficulty is likely to arise, or

(c) that an order under this section is required by any provision of this Code, or will tend to the general convenience of the parties or witnesses, or is expedient for the ends of justice,

it may order-

(i) that any offence be inquired into or tried by any Court not qualified under sections 177 to 185 (both inclusive), but in other respects competent to inquire into or try such offence;

(ii) that any particular case or appeal, or class of cases or appeals, be transferred from a Criminal Court

subordinate to its authority to any other such Criminal Court of equal or superior jurisdiction;

(iii) that any particular case be committed for trial to a Court of Session; or

(iv) that any particular case or appeal be transferred to and tried before itself.

(2) The High Court may act either on the report of the lower Court, or on the application of a party interested, or on its own initiative:

Provided that no application shall lie to the High Court for transferring a case from one Criminal Court to another Criminal Court in the same session's division, unless an application for such transfer has been made to the Sessions Judge and rejected by him.

(3) Every application for an order under sub- section (1) shall be made by motion, which shall, except when the applicant is the Advocate- General of the State, be supported by affidavit or affirmation.

(4) When such application is made by an accused person, the High Court may direct him to execute a bond, with or without sureties, for the payment of any compensation which the High Court may award under sub- section (7).

(5) Every accused person making such application shall give to the Public Prosecutor notice in writing of the application, together with copy of the grounds on which it is made; and no order shall be made on of the merits of the application unless at least twenty- four hours have elapsed between the giving of such notice and the hearing of the application.

(6) Where the application is for the transfer of a case or appeal from any subordinate Court, the High Court may, if it is satisfied that it is necessary so to do in the interests of justice, order that, pending the disposal of the application, the proceedings in the subordinate Court shall be stayed, on such terms as the High Court may think fit to impose:

Provided that such stay shall not affect the subordinate Court' s power of remand under section 309.

(7) Where an application for an order under sub-section (1) is dismissed, the High Court may, if it is of opinion that the application was frivolous or vexatious, order the applicant to pay by way of compensation to any person who has opposed the application such sum not exceeding one thousand rupees as it may consider proper in the circumstances of the case.

(8) When the High Court orders under sub-section (1) that a case be transferred from any Court for trial before itself, it shall observe in such trial the same procedure which that Court would have observed if the case had not been so transferred.

(9) Nothing in this section shall be deemed to affect any order of Government under section 197.”

5. Thus, in other words for the purposes dealing with the proposition in this case, the Family Court would have no jurisdiction to try the cases. In view of the judgment of this Court, in the case of ***Rohan Shah Vs. Nishigandha Shah, 2023 Supreme (Bom) 1459***, wherein this Court has considered Section 24 of Code of Civil Procedure as well as Section 407 of the Code of Criminal Procedure. The Protection of Women from Domestic Violence Act, was enacted with an intent to protect the woman and grant access to justice and for her protection through the Magistrate in her locality. The High Court would have power to transfer the case from the Magistrate to the Family Court whether or not it has jurisdiction to try it to meet the ends of justice, to convenience the parties and more importantly to lead evidence before one Court, specially when the issues may be common, and between the same parties, to save both energy and expense, to save the precious time of Court and prevent conflicting views and multiplicity of proceedings.

6. As far as the present case is concerned, admittedly, the documents on record shows that the Non-applicant is residing at Nagpur. The notice of this Application is also served on her at Nagpur. The Aadhar Card also shows her address of Nagpur but she has filed an Application at Gadchiroli showing that she is residing alongwith her parents. However, there is no material on record to show that, she is residing at the house of her parents. On the contrary, the documents on record sufficiently shows that, she is residing at Nagpur. In view of that and to avoid multiplicity of proceedings if the two Courts decides the two applications separately. The divorce petition filed by the present Applicant bearing Petition No.A-414/2024 is pending before the Family Court, Nagpur, and therefore, it would be in the interest of justice and convenient for both the parties if both the proceedings are decided by one Court. In view of that, the Application deserves to be allowed. Accordingly, I proceed to pass the following order.

ORDER

- i. The Application is **allowed**.
- ii. The proceeding filed under D.V. Act, 2025 bearing P.W.D.V.A. Application No. 53/2021 pending before the 2nd Jt. Civil Judge Junior Division and Judicial Magistrate First Class, Gadchiroli is withdrawn and transferred to the Family Court-5, Nagpur for further adjudication.

iii. The parties to appear before the Family Court-5, Nagpur on 10.04.2026.

7. Pending application/s, if any, shall stand disposed of accordingly.

(URMILA JOSHI-PHALKE, J.)

SD. Bhimte