

ITEM NO.12

COURT NO.4

SECTION XVIA

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

TRANSFER PETITION (CRIMINAL) NO(S). 49/2017

TEHMUL BURJOR SETHNA

PETITIONER(S)

VERSUS

KAMALRUKH TEHMUL SETHNA

RESPONDENT(S)

(WITH APPLN. (S) FOR STAY AND OFFICE REPORT)

Date : 26/04/2017 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE RANJAN GOGOI

HON'BLE MR. JUSTICE NAVIN SINHA

For Petitioner(s)

Mr. Ranjan Mukherjee, Adv.

Mr. Asit Kumar Roy, Adv.

Mr. Snehasish Mukherjee, Adv.

For Respondent(s)

Dr.(Ms.) Rohini S. Pandit, Adv.

Mr. Harpreet Singh Sandhu, Adv.

Mr. Satyapal Khushal Chand Pasi, Adv.

UPON hearing the counsel the Court made the following

O R D E R

The transfer petition is dismissed in terms of the
signed order.

[VINOD LAKHINA]

COURT MASTER

[ASHA SONI]

COURT MASTER

[SIGNED ORDER IS PLACED ON THE FILE]

IN THE SUPREME COURT OF INDIA

CRIMINAL ORIGINAL JURISDICTION

TRANSFER PETITION (CRIMINAL) NO.49/2017

TEHMUL BURJOR SETHNA . . .PETITIONER

VERSUS

KAMALRUKH TEHMUL SETHNA . . .RESPONDENT

ORDER

1. Heard the learned counsels for the parties.

2. The present transfer petition has been filed seeking transfer of the proceedings instituted by the respondent-wife under the Protection of Women from Domestic Violence Act, 2005 ("Domestic Violence Act" for short) against the petitioner - husband from the Court of the Metropolitan Magistrate, 12th Court, Bandra, Mumbai to the Court of Chief Metropolitan Magistrate at Surat, Gujarat.

3. The principal ground on which the transfer has been sought is that the respondent - wife herself has filed a divorce petition

under the Parsi Marriage and Divorce Act which is presently pending at Surat. It is, therefore, contended that it may be convenient to have the proceedings under the Domestic Violence Act also transferred to the Court of Chief Metropolitan Magistrate at Surat, Gujarat.

4. In reply, the learned counsel for the respondent has submitted that the divorce proceedings pending in the Court at Surat, Gujarat hears Parsi Matrimonial case only twice a year as the empanelled jury of delegates sits twice a year only. Initially the said proceedings were filed before the learned Chief Matrimonial Court at Bombay which has now been transferred to Surat as the Chief Matrimonial Court at Bombay did not have any jurisdiction in the matter.

5. Taking into account the circumstances in which the divorce proceedings are presently pending in the Court in Surat, Gujarat we are of the view that the same cannot be a good

ground to transfer the proceedings under the Domestic Violence Act from the Court of the Metropolitan Magistrate, 12th Court, Bandra, Mumbai to the Court of Chief Metropolitan Magistrate at Surat, Gujarat as prayed for by the petitioner - husband. Above all, the respondent also lives in Mumbai and the Court at Mumbai has jurisdiction in the matter.

6. Taking into account all the aforesaid facts we decline the prayer for transfer. The transfer petition is accordingly dismissed.

.....,J.
(RANJAN GOGOI)

.....,J.
(NAVIN SINHA)

NEW DELHI
APRIL 26, 2017