

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISC. CIVIL APPLICATION NO.152 OF 2014

Ms. Pratiksha Gurudatta Godse Applicant
Vs.
Shri. Gurudatta Jayasingh Godse Respondent

Mr. Rushikesh C. Barge, Advocate for the Applicant.
Respondent in person.

Coram : Smt. R.P SondurBaldota, J.
Date : 28th January, 2015

P.C.

1 This application is preferred u/s 24 of Code of Civil Procedure for transfer of Hindu Marriage Petition No.441 of 2014 filed by the respondent in the Family Court at Pune to the Court of Civil Judge, Senior Division, Satara. The proceeding sought to be transferred are for restitution of conjugal rights. The applicant-wife has also filed proceedings being H.M.P. No.390 of 2013 for annulment of the marriage in the Court of Civil Judge, Senior Division, Satara. Copies of both the proceedings are annexed to the application.

2 The ground, on which the applicant seeks transfer

is that there is threat to the life and limb of the applicant if she goes to Pune to attend to the court proceedings. The application refers to the complaints filed against the respondent with the Police. The second ground is of personal inconvenience to travel the distance from Sonawadi, Taluka Phaltan, Satara where the applicant is presently residing with her parents to Pune. And lastly her the financial incapacity to undertake the journey.

3 The respondent appears in person and opposes the application alleging that the applicant has not only suppressed material facts of the marriage from the Court but has also made false statements in the application. He submits that he, infact, wants the marriage to survive and hence, has applied for restitution of conjugal rights.

4 The case of the applicant is that she had been forced to marry the respondent. At the relevant time, she was studying for B.C.S., 2nd year and had been residing in a private hostel. The respondent was working as a Rector in the hostel. The applicant alleges that on 18th June, 2013, the respondent administered her some medicine to make her unconscious, then took her in that condition to Akshata Hall, 276 Narayan Peth, Kelkar Road, Pune where he obtained her

signature on the Marriage Register in the presence of the friends and an advocate. The friends present were, one Dinesh Gumaste and one D.B. Jadhav. After obtaining the signature of the applicant on the marriage register at the hall, the applicant was taken to a notary advocate, Mr. M.V. Kirad, where she signed an affidavit. Thereafter both were shown as married. The applicant alleges that the marriage that had taken place on 18th June, 2013 was not with her free consent. The parents of the applicant were completely opposed the marriage. On 17th June, 2013, the parents had registered “Missing Complaint” with the Pimpri-Chinchwad Police Station. When the respondent learnt about it, he left the applicant at the residence of his relative on 20th June, 2013 and absconded. The parents of the applicant, traced her at the residence of the relative of the respondent, and took her to Sonewadi with the help of Police. Since then the applicant has been residing with her parents.

5. The respondent denies all the allegations and has produced copies of the marriage invitation card, photographs taken at the time of marriage and the affidavit made by the applicant. The respondent alleges that since the marriage of the applicant was against the wishes of her parents who are politically influential persons, every attempt is being made to

involve him in some criminal proceeding or the other. Therefore, if the proceedings are transferred from the court at Pune to Satara as prayed, there would be serious risk to the life of the respondent and he would require protection. He has referred to some of the complaints filed by the applicant, against him, one of them being F.I.R. dtd.11th August, 2013.

6. On a prima facie view of the matter the story of the applicant appears to be fanciful and imaginary. It is also devoid of material particulars. If the applicant became unconscious after some medicine was administered to her how was she carried to the marriage venue where admittedly the friends of the respondent including an advocate had assembled is not known. From there she was taken to the office of the Notary Public. If she was unconscious how could she sign the Marriage Register and the affidavit ? The applicant does not explain the marriage invitation card and the photographs which show that she was not just conscious but also happy. The applicant does not state when, how and where she regained consciousness and also where was she until 20th June, 2013. The marriage was a registered marriage which involves some mandatory formalities. Besides it would performed and registered only in the presence of the Marriage Registrar.

7. As against the above facts there is no denial that the father of the applicant is a politically influential person and does not approve the marriage. There are also criminal proceedings initiated against the respondent. These facts substantiate the apprehensions expressed by the respondent.

8. Considering the facts and circumstances of the case, it will not be in the interest of justice to transfer the proceedings from the Court at Pune to the Court of Satara. As regards the claim of inability of the applicant to take up the travel, there is can be no substance in it as she is seen to be bold enough to reside in a hostel for her studies.

9. Mr. Barge the larned advocate for the appellant relies upon the following decisions of the Apex Court and of this court

(I) Roopali Saxena Vs. Amit Saxena, reported in (2004) 13 Supreme Court Cases, page 495.

(II) Rajani Kishor Pardeshi Vs. Kishor Babulal Pardeshi, reported in (2005) 12 Supreme Court Cases, page 237.

(III) Megha Madan Nayak Vs. Madan Rustumrao Nayak, reported in 2013(4) Bombay C.R. Page 211; and

(IV) Anita Balkrishna Barge Vs. Balkrishna Sopan Barge, reported in 2011(3) Bombay C.R. No.866.

to submit that in case of matrimonial matters the convenience of the wife must always be seen and therefore, the transfer application should be allowed. Undoubtedly, ordinarily the courts lean towards the convenience of the wife. However, that can never be a thumb rule. Besides, in the extraordinary facts of the case the transfer would not be in the interest of justice. Hence, the application is dismissed.

(Smt. R.P. SondurBaldota, J.)