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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO.281 OF 2016

Mrs.Neha P. Murkute	...Applicant
V/s.	
Pawan S. Murkute	...Respondent

Mr.Satyajeet Dighe for the Applicant.

Mr.Sham Walve for the Respondent.

CORAM : R.D. DHANUKA, J.
DATE : 29TH NOVEMBER, 2016.

P.C. :-

1. Learned counsel for the parties state that mediation between the parties has failed.
2. By this application filed under section 24 of the Code of Civil Procedure, 1908, the applicant seeks transfer of the Petition P.A. No.1225 of 2015 filed by the respondent before the Family Court, Pune to the Family Court a Nashik.
3. The applicant and the respondent were married on 1st December, 2014 at Pune. It is the case of the applicant that the applicant was pregnant twice however suffered miscarriage due to the alleged harassment and physical abuse of the respondent. It is the case of the applicant that she was driven out of her matrimonial

home by the respondent and his relatives on 8th September, 2015 and has been staying with her father since then in Nashik. It is also the case of the applicant that the respondent and his parents has been demanding huge amount of dowry from her. According to the applicant, there was also physical assault by the respondent and his family members on the father of the applicant, who was required to register an FIR at Gangapur Police Station under the various provisions of the Indian Penal Code against them.

4. The respondent has filed a petition (1225 of 2015) before the Family Court, Pune *inter-alia* praying for divorce against the applicant.

5. Learned counsel appearing for the applicant submits that the applicant is not employed. The distance between Nashik and Pune is about 220 K.M. and takes about 6 ½ hours from Nashik to Pune. He submits that his client is attending the classes of I.C.W.A.I. course and in view of the applicant being unemployed and the parents not keeping good health, it is not convenient for the applicant to attend the proceedings from Nashik to Pune. The applicant also apprehends the threat and assault from the respondent and his family members.

6. Learned counsel appearing for the respondent on the other hand invited my attention to the averments made by the

respondent in the petition (1225 of 2015) *inter-alia* praying for divorce against the applicant. He submits that there was no miscarriage but the pregnancy was terminated at the instance of the applicant herself in view of the applicant pursuing her career at Nashik. He submits that the applicant has meted out cruelty on the respondent and not the respondent upon the applicant. He submits that FIR lodged by the father of the applicant is totally false. He submits that the applicant has been staying with her mother and is presently working at Pune and thus there was no inconvenience for her to attend the proceedings at Nashik if the matter is transferred to the Court at Nashik.

7. The respondent has not disputed that the applicant is unemployed. The applicant has been staying with her father at Nashik for quite some time. It is also not in dispute that the applicant has been attending the classes of A.C.W.A.I. course at Nashik. It will not be convenient for the applicant to attend proceedings at Pune from Nashik on the ground that the distance between Nashik and Pune is 220 K.M. and travelling takes place about 6 ½ hours. It is the case of the applicant that her parents are under financial constrain and are senior citizens and suffering from ailment relating to the old age.

8. No affidavit in reply has been filed by the respondent. Insofar as the submission of the learned counsel for the respondent

that there was no miscarriage but the pregnancy was terminated at the instance of the applicant is concerned, these allegations can be gone into the proceedings before the Family Court. This Court need not express or make any observations thereon in this proceeding. The respondent has not disputed that he is earning substantial amount and is financially sound. FIR filed by the father of the applicant is also pending. The applicant apprehends further threats or assault from the respondent or his family members. The parents of the applicant are old aged and are unable to accompany the applicant to attend the proceedings at Pune.

9. The Supreme Court as well as this Court in the catena of the decisions has held that convenience of the wife has to be considered by the Court while considering the application under Section 24 of the Code of Civil Procedure, 1908.

10. Whether the applicant has committed any cruelty or the respondent has committed any cruelty can be decided by the Family Court in the pending proceedings.

11. In my view, the applicant has made out a case for transfer of the proceedings filed by the respondent from the Family Court at Pune to the Family Court at Nashik. I therefore, pass the following order :-

a). Miscellaneous Civil Application No.281 of 2016 is made

absolute in terms of prayer clause (A). The Family Court, Pune is directed to transmit the papers and proceedings in the Petition P.A. No.1225 of 2015 to the Family Court at Nashik expeditiously.

b). The parties as well as two Courts described in prayer clause (A) to act on the authenticated copy of this order.

c). Both the parties are directed to appear before the Family Court at Nashik on 16th January, 2017.

d). No order as to costs.

(R.D. DHANUKA, J.)