

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

MISC. CIVIL APPLICATION NO. 193 OF 2016

Mrs. Sonali Vishal Wadile,
Age : 27 years, Occu. : Nil,
C/o. Sahebrao Tulshiram Fulpagre,
Subhash Nagar, Bhoi Galli,
Galli No.5, June Dhule,
Tal. & Dist. Dhule

.. APPLICANT

VS.

Mr. Vishal Bansilal Wadile,
Age : 32 years, Occu.: Service,
R/o. At post Tembhode,
Near Swami Padmanabh Temple,
Behind 'Visawa' Bungalow,
Tal. & Dist. Palghar – 401 404

.. RESPONDENT

Mr. Shrikant Patil, Advocate for the applicant
Mr. A.K. Gawali, Advocate for the respondent

CORAM : SUNIL P. DESHMUKH, J.
DATE : 07/03/2017

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith.
2. Heard learned counsel for the parties finally, by consent.
3. The application has been moved by applicant – wife, seeking transfer of proceeding bearing Marriage Petition no. 11

of 2016 instituted by respondent – husband, from the court at Palghar to a competent court at Dhule.

4. Learned counsel for the applicant draws attention to that, as many as three proceedings are pending at Dhule, initiated by applicant – wife and those are being attended to by respondent – husband. It is contended that after being driven out, applicant - wife is residing with parents at Dhule and she has no source of income, and, as such, she will not be able to bear expenses of litigation and travel to attend the court proceedings at Palghar and distance between Palghar and Dhule is about 370 km, whereas respondent-husband is serving and has sufficient means to bear the expenses to attend the court proceedings at Dhule.

5. Learned counsel Mr. Gawali, appearing for respondent – husband contends that respondent is a Software Engineer and is serving. He has already been harassed and has to attend three proceedings at Dhule, and, if fourth one is added, it would be difficult for him to attend the same and may be his service would be in peril.

6. He submits that additionally, there have been assaults from applicant – wife and her relatives about which complaints have been lodged at Palghar Police Station which were recorded as non-cognizable cases.

7. He further submits that respondent – husband is ready to bear the to and fro traveling expenses of the wife from Dhule to Palghar, alongwith escort. He further draws attention to that initiation of proceedings at Dhule have been after the institution of proceedings at Palghar by the husband.

8. He further contends that initiation of proceedings at Dhule has been in retaliation to the proceedings instituted by the respondent. He therefore urges not to indulge into the request made under the miscellaneous civil application.

9. In support of his submission, he purports to place reliance on two orders of the Supreme Court. One is the case of *Anindita Das V. Srijit Das* reported in (2006) 9 Supreme Court Cases 197 to support his submission that wife's economic difficulties, would not matter. So far as order in the case of *Preeti Sharma V. Manjit Sharma* reported in (2005) 11 Supreme Court Cases 535, is concerned, there were two cases pending at Muzaffar Nagar, U.P. and one

was pending at Delhi. Supreme court, in the facts and circumstances of the case, considered that petitioner being a lady may not weigh, and one suit pending at Delhi, it may be a case wherein transfer of one suit from Delhi to Muzaffar Nagar can be proper and may be sought.

10. Although, learned counsel for the respondent has contended as aforesaid, and, relied on the citations, one would have to take into account, the facts and circumstances which were being considered by the supreme court for passing the aforesaid orders and those in present matter are different. Supreme court in the case of *Anindita Das* (supra), has considered that the court is required to decide each petition on its merits.

11. Herein, in the present matter, the respondent is already required to be at Dhule in three cases and if one case pending at Palghar, is transferred to Dhule, it is unlikely to cause any inconvenience to the respondent, if the dates in all the four matters would be so arranged, as would be convenient to the respondent. That would also save frequent travel to Dhule from Palghar of respondent on different dates in different matters.

12. In the circumstances, it appears to be a case wherein it would be convenient, if the matter at Palghar is transferred to Dhule, with a direction that dates in all the matters at Dhule, be so arranged, as would be convenient to the respondent. In case of any threat, it would be open for the respondent to make appropriate application to the courts concerned.

13. In view of aforesaid, miscellaneous civil application stands granted in terms of prayer clause (a).

14. Rule is made absolute accordingly.

15. Miscellaneous civil application is disposed of.

[SUNIL P. DESHMUKH]
JUDGE

arp/