

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

MISC. CIVIL APPLICATION NO.200 OF 2017
(Mumtaz Begum Mohammad
Vs.Mohammad Shaheduddin Md.Sayeeduddin)

Mr.A.P.Gaikwad, Advocate for the applicant.
Mr.Shaikh Mazhar A.Jahagirdar, Advocate for the respondent.

CORAM : RAVINDRA V. GHUGE, J.)

DATE : 12/12/2017

PER COURT :

1. By this application u/s 24 of the CPC, the applicant/ wife seeks the transfer of RCS No.205/2017 filed by the respondent/husband from the 5th Court of the learned Civil Judge, J.D. Parbhani to the Court of the learned C.J.J.D. Ambajogai.

2. It is submitted that the wife is a *pardanashin* lady and is presently living with her parents after the desertion by the husband. The daughter and the son who are about 3 and 5 years of age respectively, are residing with her and are taking education at Ambajogai. The distance is of about 100 kms. from Ambajogai to Parbhani. It takes a complete day to travel by State Transport Vehicle and it is after sunset that the applicant could return to her residence after attending the hearing in the Court at Parbhani. The children,

especially the younger child who is a daughter, cannot remain away from her mother for such a long duration and she also has to be carried along to Parbhani.

3. It is submitted that a Cri.Appl.No..451/2017 u/s 125 of the Cr.P.C. and Cri.Misc.Appl.No. 452/2017 filed by the wife are pending before the Court at Ambajogai. The respondent/husband has to visit the hearing in both the matters at Ambajogai.

4. Learned Advocate for the husband has strenuously opposed this petition and prays that the same may be dismissed with heavy costs. It is contended that Section 24 of the CPC is now being misused by the wife to harass the husband. It is only to cause harassment that this application has been filed. All allegations made by the wife are false and denied.

5. Having considered the submissions of the learned Advocates for the respective sides, it cannot be ignored that the petitioner/wife is already suffering the desertion by the husband. She is now residing at her parental home. The Hon'ble Apex Court in the matter of Sumita Singh Vs. Kumar Sanjay AIR 2002 SC 396 and Soma Choudhury Vs.Gourab Choudhury. (2004) 13 SCC 462 has

concluded that unless there are circumstances indicated by which it is impossible for the husband to leave his place owing to his job requirements or other compelling circumstances, the convenience of the wife has to be seen.

6. Considering the above, this application is allowed in terms of prayer clause "B" and RCS No.205/2017 filed by the respondent/husband shall stand transferred to the Court of the learned C.J.J.D. Ambajogai.

7. It would be open for the respondent/husband to pray for listing the said matter on the same date on which the other two matters are posted for hearing in the Court at Ambajogai so as to attend the court proceedings in a single trip.

(RAVINDRA V. GHUGE, J.)