

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

MISC.CIVIL APPLICATION NO.226 OF 2017
(Kanchan Shantanu Raut Vs. Shantanu Ashok Raut)

Mr.P.D.Patil, Advocate for the applicant.
Mr.V.Y.Bhide, Advocate for the respondent.

CORAM : RAVINDRA V. GHUGE, J.)

DATE : 12/12/2017

PER COURT :

1. The applicant, by this application, seeks the transfer of HMP No.153/2017 from the Court of the learned C.J.S.D. Khamgaon, Dist.Buldhana to the Court of learned C.J.S.D. Parbhani.

2. The applicant contends that due to the desertion by her husband, she has returned to her parental home at Parbhani. The respondent/husband has initiated HMP No.153/2017 seeking divorce before the competent Court at Khamgaon in Dist.Buldhana. According to the applicant, the distance between Parbhani and Khamgaon is about 200 kms.

3. It is stated that there is no issue out of the wedlock. The petitioner being a young lady cannot travel alone by public transport

to Khamgaon for attending the Court hearing and the return trip after the Court hearing is over, normally occurs after sunset and it is in the night hours that the applicant would reach her parents home.

Consequentially, an adult male member of the family, who can protect the applicant, is required to travel alongwith her.

4. Learned Advocate for the respondent/husband submits that he is willing to pay an amount of Rs.1,000/- to the wife for travelling to Khamgaon for attending the Court hearing. He is also willing to pay for the adult member of the family for travelling alongwith her. Merely because the applicant being the wife, should not result in taxing the husband in travelling from Khamgaon to Parbhani for the proceedings which he has instituted at Khamgaon.

5. The respondent has placed reliance upon the judgment of the Hon'ble Apex Court in the matter of Shivkumari Devendra Ojha Vs. Ramajot Shitla Prasad Ojha and others [AIR 1997 SC 1036]. The petitioner relies upon the matter of Sangamitra Ramakant Royalwar Vs. Ramakant Gangaram Royalwar [2009(1) Mh.L.J. 303].

6. 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. It is not in every situation that expenses for travel would serve the purpose. 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.

7. It is informed that two more proceedings in the nature of Cri.Misc.Appl.No. 669/2017 under the Cr.P.C. and Cri.Misc.(PWDAV) Appl.No.149/2017 under the Domestic Violence Act have been instituted by the wife at Parbhani. Though the said proceedings may have been instituted subsequent to the proceedings initiated by the respondent/ husband, it cannot be ignored that the respondent/ husband will now be required to travel to Parbhani for attending the proceedings in the said two cases. It would therefore be convenient to both the sides to have the proceedings initiated by the husband transferred to Parbhani with liberty to the husband to have all the proceedings posted on a common date so that he can attend the said proceedings in a single visit.

8. Considering the above, this application is allowed in terms of prayer clause B and the HMP No.153/2017 shall stand transferred to the Court of the learned Civil Judge, S.D. Parbhani.

9. As noted above, the husband would be at liberty to seek the same date in this proceeding alongwith the other two proceedings, so as to attend the court hearings in a single visit.

(RAVINDRA V. GHUGE, J.)