

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****MISC. CIVIL APPLICATION NO. 99 OF 2015**

Mrs. Nisha Sumedh Lagade @ Nisha Mohan Mane ... Applicant

Versus

Mr. Sumedh Shreekant Lagade ... Respondent

Mr. Priyal Sarda for the Applicant.

Ms. Shilpa Kurhade for the Respondent.

CORAM : S.J. KATHAWALLA, J.

DATED : 7TH JUNE, 2017

P.C.:

1. By the above Miscellaneous Civil Application filed under Section 24 of the Code of Civil Procedure, 1908, the Applicant seeks transfer of marriage Petition No. 693 of 2014 filed by the Respondent Husband and pending before the learned CJSD, Thane to the Court of the learned CJSD, Barshi, District Solapur.

2. The marriage between the Applicant and the Respondent was solemnized on 25th December, 2013 at Barshi, District Solapur. According to the Applicant, in the month of March-2014, the Respondent and his relatives drove her out of her matrimonial home and since then the Applicant is residing with her parents at Barshi, District Solapur. According to the Applicant, she was harassed by the Respondent and his relatives on one ground or the other and was also assaulted. She has therefore filed a private complaint before the learned JMFC Barshi bearing RCC No. 261 of

2014 against the present Respondent and his family members interalia for the offence punishable under Section 498A of the Indian Penal Code, 1860 on 11th September, 2014.

3. Thereafter, the Applicant started preparation for the MPSC examination and started attending private classes at Barshi. She has submitted that since she is residing with her old / aged parents, it will be very difficult for her to travel alone from Barshi to Thane and back which involves a journey of about 16 hours. It is also submitted that the Respondent is already travelling from Thane to Barshi to attend the private complaint filed by the Applicant before the learned JMFC, Barshi. On a query raised by the Court, the learned Advocate appearing for the Applicant has informed the Court that it is not possible for the Applicant to also make any arrangement for a overnight stay at Mumbai / Thane.

4. The Respondent has filed his Affidavit in Reply to the above Application, wherein he has pointed out that he was compelled to file the Divorce Petition in view of the conduct of the Applicant set out therein. It is submitted that when he along with his family members who are old and suffering from various ailments attend the proceedings qua the private complaint at Barshi, the Applicant is not remaining present. It is submitted that since he is the only earning member of his family, he is unable to bear the travel expenses and take leave from his job "for such cases". He has submitted that therefore the Divorce Petition being MP No. 693 of 2014 ought not be transferred from the CJSD, Thane to the Court of the learned CJSD, Barshi,

District Solapur.

5. I have considered the submissions advanced by the learned Advocates appearing for the parties. Admittedly, the Applicant Wife is residing at Barshi, District Solapur along with her parents. Again admittedly, the journey from Barshi to Thane and back is of 16 hours and would cause grave inconvenience to the Applicant to travel alone without any facility for a overnight stay at Thane. As against this, the Respondent Husband is admittedly attending the proceedings filed by the Applicant Wife at Barshi. Again admittedly, the Respondent Husband has till date not paid any maintenance to the Applicant Wife but has instead alleged that he had paid Rs.50,000/- by way of cash to the Applicant and had given a cheque of Rs.4,50,000/- from his uncle's account i.e. Virendra Electrical Works in favour of her father. The Respondent has admittedly not filed any Application seeking transfer of the complaint filed by the Applicant before the JMFC Barshi to the Court at Thane.

6. Keeping the aforestated facts in mind and more particularly the fact that the journey from Barshi to Thane and back takes about 16 hours and the Respondent husband is already attending the proceedings filed by the Applicant at Barshi, the Application for transfer is required to be allowed and I therefore pass the following order :

- i. MP No. 693 of 2014 filed by the Respondent before the CJSD, Thane is transferred to the CJSD, Barshi, District Solapur.
- ii. The learned Civil Judge, Senior Division, Barshi shall endeavour to decide

MP No. 693 of 2014 within a period of six months from the date of this order and shall not grant adjournments unless absolutely necessary.

iii. Needless to add that the learned Civil Judge, Barshi may grant substantial costs against any party who in his / her opinion is not attending the proceedings without a serious or legitimate cause / reason resulting in inconvenience being caused to the other side.

iv. The above Civil Application is accordingly disposed off.

(S.J.KATHAWALLA, J.)