

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISC. CIVIL APPLICATION NO. 283 OF 2015

Sou. Meena Amit Davne ... Applicant

Versus

Shri Amit Krushna Davane ... Respondent

Ms. Tanaya Patankar a/w. Mr. Prabhakar Jadhav i/b. Mr. Vishal Kolekar for the Applicant.

None for the Respondent.

CORAM : S.J. KATHAWALLA, J.
DATED : 30TH JUNE, 2017

P.C.:

1. By the above Misc. Civil Application filed under Section 24 of the Code of Civil Procedure, 1908, the Applicant-wife seeks transfer of the Hindu Marriage Petition No. 106 of 2015 filed by the Respondent-husband and pending before the Civil Judge, Senior Division, Gadhingalaj, Kolhapur to the Family Court, Pune.

2. According to the Applicant, the marriage between her and the Respondent was solemnized on 17th December, 2013. After the marriage was performed, the Respondent agreed that the Applicant may stay separately since she was studying in second year of engineering. The Respondent would often visit her hostel to keep a check on her timings, to see whom she meets and would get extremely angry if she did not answer his phone calls or decided to go out with her friends without his consent. After her engineering studies got over, she decided on taking up a job in Pune in order

to get work experience. The Respondent initially did not agree, but eventually gave in and she took a job in Pune and was staying with her uncle. The Applicant thereafter informed her parents that the marriage was not working out and that she was facing extreme mental harassment from her husband i.e. the Respondent.

3. According to the Applicant, the Respondent visited her matrimonial home in a drunken state and demanded that the Applicant should come and stay with him. Since the Applicant as well as her parents did not accede to the demand made by the Respondent, the Respondent threatened them with dire consequences.

4. According to the Applicant, the Respondent thereafter filed the Hindu Marriage Petition No.106 of 2015 in the Court of Civil Judge, Senior Division, Gadhingalaj, Kolhapur for restitution of conjugal rights. According to the Applicant, she is residing at Pune with her uncle and she is also working at CorpoFin Solutions at Pune. She has submitted that the distance between Pune and Kolhapur is approximately 300 kms. She has submitted that the present proceedings being very personal and sensitive, she would require support from her family members in Court. Since she is taking care of her family from the salary that she earns, she is also unable to bear the travel expenses from Pune to Kolhapur and back. Frequent absence from her job might result in her losing the same which the Applicant cannot afford to do. She has submitted that even otherwise, it is not possible and practical for the Applicant to attend the proceedings at Kolhapur. She is apprehending physical harm from the Respondent at Gadhingalaj, Kolhapur. She has submitted that if the above

Misc. Civil Application is not allowed, grave inconvenience and hardship will be caused to her, whereas it will not inconvenience the Respondent if he is required to attend to the proceedings at Pune.

5. The above Misc. Civil Application and the orders passed therein are served on the Respondent. The Affidavits proving service dated 14th June, 2016 and 21st June, 2017 along with annexures are on record. However, the Respondent has neither filed his Affidavit in Reply to the above Misc. Civil Application nor has he come forward to defend the same. In view thereof, in the absence of any defence or contest by the Respondent, the averments contained in the Misc. Civil Application have remained uncontroverted. I see no reason why the statements / submissions made by the Applicant in the above Misc. Civil Application should not be accepted. In the circumstances, I am satisfied that grave inconvenience and hardship will be caused to the Applicant, if the relief sought in the above Misc. Civil Application is not granted. In the circumstances, I pass the following order :

- i. The learned Civil Judge, Senior Division, Gadhingalaj, Kolhapur is directed to transmit the papers and proceedings of the Hindu Marriage Petition No. 106 of 2015 to the Principal Judge, Family Court Pune.
- ii. The parties as well as the learned Civil Judge, Senior Division, Gadhingalaj, Kolhapur and the Principal Judge, Family Court, Pune to act on an authenticated copy of this order.
- iii. Parties and / or their Advocates shall appear before the Principal Judge,

Family Court, Pune on 21st August, 2017 at 11.00 a.m. and obtain appropriate orders / directions.

iv. The above Misc. Civil Application is allowed in the aforesaid terms, with no order as to costs.

(S.J.KATHAWALLA, J.)