

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

MISC. CIVIL APPLICATION NO.881 OF 2016

Anupriya Umesh Ugaonkar, Rajasv Colony, Yavatmal

-vs-

Umesh Sudhakarro Ugaokar, Asole Layout, Arvi, Wardha

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri V. D. Darne, Advocate for applicant.

Shri Mahesh Thorat, Advocate for respondent.

CORAM : A.S.CHANDURKAR, J.

DATE : February 14, 2017

By the present application filed under Section 24 of the Code of Civil Procedure, 1908, the applicant who is wife of the non-applicant seeks transfer of petition filed for divorce from the Court of Civil Judge, Senior Division, Wardha to the Court of Civil Judge, Senior Division, Yavatmal.

The parties were married on 04/04/2013 at Yavatmal. However on account of matrimonial disputes, the applicant herein has initiated two criminal proceedings against the non-applicant before the Court of Judicial Magistrate, First Class, Yavatmal. The non-applicant herein has filed petition for dissolution of marriage before the Court of Civil Judge, Senior Division, Wardha. It is in this background that the present

application has been moved under Section 24 of the Code seeking transfer of the proceedings from Wardha to Yavatmal.

The learned counsel for the applicant submitted that travelling from Yavatmal to Wardha for attending the proceedings initiated by the non-applicant causes inconvenience. She requires company of one person. Her father aged about 72 years is unable to travel with her. The non-applicant is required to appear in the Court at Yavatmal with regard to the proceedings filed by the applicant. It is therefore submitted that the proceedings filed at Wardha are liable to be transferred to Yavatmal. The learned counsel for the applicant relied upon the decision in **2016(4) ALL MR 599 Mahadevi w/o Gopal Mehetre vs. Gopal s/o Prabhakar Mehetre**.

The learned counsel for the non-applicant opposed the application. He relied upon affidavit dated 23/11/2016 and submitted that the criminal proceedings filed by the applicant at Yavatmal had no substance and had been filed merely to harass the non-applicant. He submitted that the non-applicant was willing to bear the expenses of transport of the applicant and that the applicant could have the company of her brother which fact was not disclosed in the application. In support of his submissions, the learned counsel relied on decision in

Gagandeep Kaur vs. J. S. Bindra 2001 AIR SCW 5125.

After hearing the learned counsel for the parties I find that the applicant has initiated two proceedings against the non-applicant which are being heard by the learned Judicial Magistrate, First Class, Yavatmal. The non-applicant is required to contest both the proceedings. On the other hand, the applicant is required to travel to Wardha to contest the proceedings initiated by the non-applicant. Considering the fact that proceedings are pending at both Yavatmal and Wardha, I find that if the matrimonial proceedings initiated by the non-applicant are transferred to Yavatmal and all the proceedings are directed to be considered on the same day, said arrangement would serve the ends of justice and would reduce the inconvenience of the applicant.

The decisions relied upon by the learned counsel for the parties are based on the facts of the respective cases. Considering the law laid down in these decisions, I find that the following order would serve the ends of justice :

The proceedings in Petition No.234/2016 pending on the file of Civil Judge, Senior Division, Wardha are directed to be transferred to the Court of Civil Judge, Senior Judge, Yavatmal for being considered on merits.

Both the criminal cases filed by the applicant as well as the proceedings in Petition No.234/2016 shall be fixed on the same date by the respective Court which would make it convenient for both the parties. In the facts of the case, the proceedings in P.A. No.234/2016 are expedited and the trial Court shall decide the same by the end of December 2017.

Application is allowed in aforesaid terms. No order as to costs.

JUDGE