

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

MISC. CIVIL APPLICATION NO.177 OF 2016

Sau. Vaishali Abhijeet Deshmukh,
Age 25 years, Occupation Household,
R/o. C/o. Pundalik Bhatu Sonawane,
Ner Tq. Dist. Dhule. ...Applicant

Versus

Abhijeet Ashok Deshmukh,
Age 29 years, Occupation Service,
R/o. Kalwan Tq. Kalwan Dist. Nashik. ...Respondent

Mr. N. N. Desale, learned counsel appearing for applicant.
Mr. B. R. Waramaa, learned counsel appearing for respondent.

CORAM : PRASANNA B. VARALE, J.
DATE : 11-01-2018.

PER COURT :

1. Heard Mr. N. N. Desale, learned counsel appearing for the applicant and Mr. B. R. Waramaa, learned counsel appearing for the respondent.

2. The applicant is before this Court with a prayer of transfer of the proceedings namely Hindu Marriage Petition No. 156 of 2015 pending in the Court of learned Jt. Civil Judge, Senior Division, Nashik Tq. Dist. Nashik to the learned Civil Judge, Senior Division, Dhule Dist. Dhule.

3. Learned counsel for the applicant vehemently submitted that, the marriage between the applicant and the respondent was solemnized on 06-06-2014. He then submitted that, the applicant though made an attempt to live peaceful matrimonial life, the respondent having a grudge against the applicant, with baseless allegations initiated the proceedings by way of Hindu Marriage Petition before the learned Civil Judge, Senior Division, Nashik. The learned counsel submitted that the respondent in his petition alleged that, the marriage of applicant and respondent was by misleading the respondent. The learned counsel for the applicant then submitted that, the applicant filed say to the petition and denied all the allegations. It was submitted that, the applicant and his family members treated the applicant well for a short matrimonial period of three months and subsequently the matrimonial relatives including the husband started ill treatment the applicant. The matrimonial relations strained and were indulged in the act of starving the applicant and there was a consistent demand of an amount of Rs.5,00,000/-. The applicant submitted that, her parents are not in a position to satisfy the demand as their financial condition is weak. Though the applicant made attempts to convince the husband and the in-laws, no heed was paid and the applicant was driven out of her matrimonial home. The

applicant with her choice lodged the report at Police Station, Dhule against the husband and in-laws for commission of offence punishable under Section 498-A, 420, 468, 406, 323, 504, 506 read with 34 of the Indian Penal Code.

4. The learned counsel for the applicant submitted that, the applicant was also require to file proceeding for maintenance and in spite of the order passed by the appropriate Court, the respondent failed to pay amount of maintenance to the applicant. The learned counsel then submitted that, the applicant is residing at Ner at the mercy of her parents. The learned counsel then submitted that, the proceeding namely Hindu Marriage Petition initiated by respondent is pending at Nashik and the applicant is require to attend the proceeding by travelling from Ner to Dhule and from Dhule to Nashik. The learned counsel then submitted that, the father of the applicant is occupying some position in Class- IV cadre and there is no other adult member in the family of the applicant and the brother of the applicant is prosecuting his studies. The learned counsel submitted that, the applicant has to bare a financial burden for attending the Court proceedings and as the brother of the applicant is prosecuting his studies, he is not available to accompany the applicant for attending

the Court proceedings. The learned counsel for the applicant submitted that, as the financial condition of the father of the applicant is weak, he is unable to bare the burden of travelling expenses of the applicant. Thus, the learned counsel prayed for transfer of the proceeding on the ground of hardship being caused to the applicant. In support of his submission, learned counsel placed reliance on the Judgment of the Hon'ble Apex Court in *Sumita Singh Vs. Kumar Sanjay and Another*, reported in *A.I.R. 2002 S.C. 396*.

5. Per contra, learned counsel Mr. B. R. Waramaa appearing for the respondent vehemently opposed the application. The learned counsel submitted that, though the applicant projects that the financial condition of father of the applicant is weak, the record speaks otherwise. Mr. Waramaa, the learned counsel by inviting my attention to the copy of report lodged at the instance of applicant placed on record by herself and submitted that the applicant states in the report that, her father made expenditure to the tune of Rs.18,00,000/- to Rs.20,00,000/- in the marriage. Mr. Waramaa submitted that, even bare perusal of report would show that, the applicant herself states that the father of the applicant made expenditure to the tune of Rs.35,000/- towards rent of the marriage hall, Rs.2,00,000/- towards

lunch, Rs.45,000/- towards cooks, Rs.1,11,000/- towards decorative articles, Rs.15,000/- towards welcome group, and above all Rs.2,00,000/- towards orchestra. Mr. Waramaa submitted that, the father of the applicant is occupying position in Class -IV cadre but the father of the applicant is an auditor. Learned counsel Mr. Waramaa submitted that, considering the material placed on record by the applicant herself it cannot be said that the applicant is facing financial hardship. Thus, Mr. Waramaa prayed for rejection of the application.

6. I have gone through the material placed on record. On perusal of the material, I find considerable merit in the submission of Mr. Waramaa. Normally though the learned counsel for the applicant placed reliance on the Judgment of the Apex Court in the matter of *Sumita Singh Vs. Kumar Sanjay and Another*, and though there cannot be any dispute on the proposition of law reflected in the Judgment of the Apex Court, considering the facts placed on record I am unable to accept the submission of learned counsel for the applicant. Normally this Court on consideration of the financial hardship being caused by the applicant allows the application seeking transfer from “A” place to “B” place. In the present matter the applicant herself states in the report that, her father made expenditure in the marriage to the tune of

Rs.18,00,000/- to Rs.20,00,000/-. Even assuming that certain expenditure was for certain social obligation and for the proper reception of the guest and the family relatives, the expenditure for an orchestra is certainly towards a luxury and the amount for such a luxury is to the tune of Rs.2,00,000/-. Mr. Waramaa was justified in submitting that somebody who is bearing the burden for Rs.2,00,000/- for luxury, cannot be said to a person of weak financial condition. Mr. Waramaa submitted that, the respondent is ready to bare the travelling expenses of the applicant.

7. Considering the above referred facts, I am of the opinion that, the applicant failed to make out any case for transfer of the proceeding from Nashik to Dhule. In view of willingness expressed by respondent-husband and considering the fact that the applicant would have travel from Ner to Dhule and Dhule to Nashik and return journey for attending the Court proceedings, the respondent is directed to pay the travelling expenses at the rate of Rs.1,000/- (one thousand) for every date to attend the Court proceedings till conclusion of the proceedings. The application is disposed of in above terms.

[PRASANNA B. VARALE]
JUDGE

vjg/-.