

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

MISC. CIVIL APPLICATION NO. 204 of 2017

SNEHAL PRASAD SHIMPI
VERSUS
PRASAD DEVIDAS SHIMPI

Advocate for Petitioner : Mr. M.S. Kulkarni.
Advocate for Respondent : Mr. S.A. Shaikh
h/f. Mr. S.S. Deshmukh.

CORAM : RAVINDRA V. GHUGE, J.
DATED : 28th August, 2018

PER COURT :

1. The petitioner/wife prays for transferring HMP No. [A] 248/2017, from the Family Court at Nashik to the Family Court at Dhule, which is recently established. Contention is that another proceeding instituted by the applicant in Miscellaneous Criminal Application No. 366/2017, is pending in the Dhule Court and the respondent/husband attends the said proceeding. If the proceedings for seeking divorce instituted by the husband at Nashik is transferred to Dhule, the respondent can attend both the proceedings in a single visit to Dhule and the matter can be posted on common dates. The applicant is a 27 years old lady and has to travel from Dhule to Nashik, which is the distance of 108 k.m. along with an adult member of family.

2. Learned counsel for the applicant relies upon the following judgments **Soma Choudhuri Versus Gourab Choudhaury [(2004) 13 SCC 462]** and **Bhartiben Ravibhai Rav Versus**

Ravibhai Govindbhai Rav [(2017) 6 SCC 785].

3. Learned counsel for the respondent/husband, on the one hand submits that considering the allegations of the wife in relation to an undue interference of the mother of the husband, the husband is willing to live separately along with the applicant/wife, so as to save the marriage. On the other hand, he submits that the husband is willing to pay charges to the wife to attend the proceedings instituted by him at Nashik.

4. The Hon'ble Apex Court in *Bhartiben* (supra), has concluded that when Civil and Criminal cross cases in matrimonial matters are lodged in different places and when the husband already appears in the Court at a place where the wife seeks transfer of the proceedings instituted by the husband, the matter can be transferred to the place of the choice of the wife, considering the hardships suffered by her. On the principle of comparative hardships, the proceedings filed by the husband can be transferred to the place where the wife has instituted the proceedings.

5. Considering the above, HMP No. 248/2017, stands transferred to the Family Court at Dhule and this application stands allowed in terms of prayer clause 'A' which reads as under :

"A. The Hon'ble High Court may be pleased to allow the

present proceedings and thereby transfer the suit and proceedings of Hindu Marriage Petition No. [A] 248 of 2017 from the learned Family Court at Nashik to the court of competent jurisdiction at Dhule by issuing appropriate orders for the said purpose."

6. Both the parties shall appear before the Family Court at Dhule on 28th September, 2018. The date of hearing in the criminal proceedings at Dhule shall be such that both these matters would be posted on the same date at Dhule, to enable the respondent to participate in the hearings on a common date.

7. Considering the grievance voiced by the wife in her criminal proceedings, I find that an attempt to refer this dispute to a trained counselor or a trained mediator at Dhule, can be opted for by the Family Court at Dhule, subject to the consent of both the parties, in order to make an attempt to save the marriage.

(RAVINDRA V. GHUGE, J.)

S.P.C.