

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

MISC.CIVIL APPLICATION NO. 223 OF 2017

CHANDANI SHARAD DAUDE  
VERSUS  
SHARAD SURYAKANT DAUDE

...

Advocate for the Applicants : Shri P. S. Agrawal  
Advocate for the Respondent- sole : Shri J. M. Murkute

...

**CORAM : RAVINDRA V. GHUGE, J.**

**DATE : 28<sup>th</sup> NOVEMBER, 2018**

**PER COURT**

1. The applicant wife prays for transferring HMP No. 104/2016 from the Court at Ambejogai to the competent Court at Hingoli.
  
2. Contention is that, after the marriage was solemnized on 19/03/2012 at Potra, the applicant was ill-treated. As the relations were strained and the applicant found it miserably to reside and cohabit with the husband, she returned to her parents' house. It is further submitted that the respondent was pursuing his studies at Denmark at the time of his marriage. After marriage he returned to Denmark and came back to India on 31/05/2013. After the death of the father of the respondent husband on 15/01/2016, the applicant went to reside with her husband, but was

driven out of the house. She was ill-treated. She was dropped at the bus-stand and since then she was residing with her parents.

3. The learned Advocate for the respondent husband has denied all these contentions. It is further submitted that this proceeding HMP No. 104/2016 was preferred for seeking restitution of conjugal rights. The same was dismissed in default in August 2018 and the respondent has preferred an application for the restoration of the said proceedings. The learned Advocate for the respondent further submits that the differences in between the couple are not too serious and there is a possibility that the marriage can be saved.

4. It is stated by the applicant that the distance between her residence and Ambejogai where the proceedings are initiated by the respondent is about 270 kilometers. Two overnight journeys are required to travel to and fro for attending the proceedings. An adult member of the family has to accompany the applicant.

5. Reliance is placed upon the following judgments in support of the case of the applicant :-

- (i) Vennangot Anuradha Samir Vs. Vennangot Mohandas Samir 2016 (1) Bom.C.R.250,*
- (ii) Soma Choudhuri Vs. Gourab Choudhuri (2004) 13 SCC 462,*
- (iii) Anjali Ashok Sadhwani Vs. Ashok Kishinchand Sadhwani, AIR 2009 SC 1374*
- (iv) Vaishali Shridhar Jagtap vs. Shridhar Vishwanath Jagtap 2016 AIR (SC) 3584*
- (v) Sayali Swapnil Kuber Vs. Swapnil Harischandra Kuber [2014(1) Mh.L.J. 584],*
- (vi) Nilima Vs. Pavansingh LEX (BOM)2011 9 193 and*
- (vii) Shila Nitin Rajure Vs. Nitin Marotiappa Rajure MCA No.184 of 2017 (Aurangabad Bench), dated 9.1.2018.*
- (viii) Mona Aresh Goel Vs. Aresh Satya Goel, 2000 (39) AIR 377.*

6. I have considered the contentions of the learned Advocates as have been recorded and I have gone through the judgments cited.

7. Considering the above, I find that, on the one hand, the

restoration proceedings initiated by the husband could be transferred alongwith HMP No. 104/2016 to the Court of the learned Civil Judge, (S.D.), Hingoli and on the other hand, the Trial Court could be directed to refer the matter to a trained Mediator at the District level to explore the possibility of saving the marriage.

8. In view of the above, this application is allowed. Civil M.A. No. 207/2018 with HMP No. 104/2016 shall be transferred to the Court of the learned Civil Judge (S.D.), Hingoli. Both the litigating sides would appear before the said Court on 15/12/2018. Formal notices are not necessary.

9. The Trial Court, initially would refer the matter to a trained Mediator at District Hingoli in order to enable the couple to sit together and develop a dialogue. Since the differences are not too serious, the couple can endeavour to save the marriage. Only if the mediation fails, that the Trial Court may then proceed to consider the Miscellaneous Application on its own merits.

**(RAVINDRA V. GHUGE, J.)**

vsm/-