

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

MISC.CIVIL APPLICATION NO.235 OF 2017
(Chhaya w/o Nitin Musale Vs. Nitin Hiralal Musale)

Mr.J.R.Patil, Advocate for the applicant.
Mr.H.P.Randir, Advocate for the respondent.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 22/01/2018

PER COURT :

1. By this application, the applicant/wife prays for transferring HMP No.313/2017 from the Court of the learned Civil Judge, S.D. Aurangabad to the Court of the learned Civil Judge, S.D. Ahmednagar.

2. The petitioner resides with her mother at Ahmednagar and is working in a private industry at Shirur. She travels from Ahmednagar to Shirur everyday in order to earn a livelihood. The distance between Ahmednagar and Shirur is 60 kms and she undertakes the said journey *to and fro* on daily basis, except a weekly holiday. Being a private factory, she cannot avail of leave frequently. A child is born out of the wedlock with the respondent/husband, who is less than 3 years of age.

3. Learned Advocate for the respondent/husband has opposed this petition. He submits that the distance between Ahmednagar and Aurangabad is not too large and she can very well travel to Aurangabad.

4. The Hon'ble Apex Court in the matters of Sumita Singh Vs. Kumar Sanjay [AIR 2002 SC 396], Soma Choudhary Vs. Gourab Choudhary [(2004) 13 SCC 462], and Vaishali Shridhar Jagtap Vs. Shridhar Vishwanath Jagtap [2016 AIR (SC) 3584], has laid down the law that in such matters, the convenience of the wife has to be considered. In the instant case, the applicant/wife, after being deserted by the respondent/husband, had to seek employment for her livelihood. She travels a distance of 120 kms every day and works in the factory for the entire shift. Even if the matrimonial proceedings are posted on a holiday at Aurangabad, she will have to travel on that day to Aurangabad and will not be able to take any rest.

5. Considering the above, this application is allowed in terms of prayer clause "B" which reads as under :-

"B. The proceedings of Hindu Marriage Petition No.313/2017 may please be transferred from the Court of Civil Judge Senior

*Division at Aurangabad to the Court of Civil Judge Senior
Division at Ahmednagar."*

(RAVINDRA V. GHUGE, J.)