

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISC.CIVIL APPLICATION NO.354 OF 2017

Radhika Abhijit Jadhav...

.. Applicant

vs

Abhijit Vasantrao Jadhav

.. Respondent

Mr.Sangramsingh Yadav for Applicant

Mr.A.B.Kadam for Respondent

CORAM : A.M.DHAVAL, J

DATED : 3RD SEPTEMBER 2018

P.C.

1. This is an application under section 24 of the Code of Civil Procedure, 1908 by the wife for transfer of HMP No.181 of 2017 filed by her husband in the Court of Civil Judge, Junior Division, Satara to the Family Court, Kolhapur.

2. Heard learned advocates.

3. The husband is resident of Phaltan but, is serving at Pune as a Professor. The wife is original resident of Kolhapur. Their marriage took place on 4.2.2014 at Kolhapur. Thereafter, the couple cohabited at Phaltan and Pune. The wife gave birth to a child on 15.11.2015. Since December 2015 the couple has separated and the

wife is residing at Kolhapur. She is studying in Engineering college and is maintaining the child Vihaan aged 2½ years. Divorce petition No.181 of 2017 has been filed at Satara. The above facts and circumstances prompt me to follow the judgment of the apex Court in Sumita Singh's case **AIR 2002 SUPREME COURT 396** wherein it is laid down that in matrimonial matters, convenience of the wife should be looked into. The only ground on which exception is sought to be carved out is that the wife has given a slap to the husband in Satara Court. It is covered under CCTV footage and even an FIR was lodged at the police station. Second ground is that the wife's father is serving in Home department and residing near the Court premises at Kolhapur. It is not made clear what post he is holding.

4. Learned advocate for the respondent also submits that his old mother is residing at Phaltan and is required to go to Phaltan on holidays but since the Court never works on holidays, the respondent will have no issue to attend the matter on holidays. The respondent is serving at Pune. Satara is not convenient to him as he has to travel where his mother is residing at Phaltan. There is no special reason for him to conduct the HMP proceedings in Satara Court. At the same time, the wife has filed though after the divorce proceedings, a

proceeding under Domestic Violence Act, in the Court of the Judicial Magistrate, First Class at Kolhapur to which he is required to attend. The only issue is about the apprehension of safety of the respondent. Learned advocate for the applicant assures that there will be no such incident or threat to the respondent.

5. Considering the facts and circumstances, it is necessary to transfer HMP No.181 of 2017 from the Court of Civil Judge, Senior Division, Satara to Family Court, Kolhapur. At the same time, some conditions can be imposed for security and convenience of the respondent. Hence, the following order:

(a) The Application is allowed.

(b) HMP No.181 of 2017 pending in the Court of the Civil Judge, Senior Division, Satara is transferred to the Family Court at Kolhapur.

(c) The Family Judge, Kolhapur shall if possible, explore the facility of recording evidence by video conferencing or through internet connectivity.

(d) The opponent shall make an application to that effect and shall be ready to bear the necessary expenses. The Judge, Family

Court, Kolhapur shall ensure there shall be no threat to the life/limb or dignity of the respondent. As far as possible, the divorce proceedings as well as Domestic Violence Act proceedings should be kept on one and the same date so that the respondent herein will not be required to make many rounds to Kolhapur.

(e) The parties agree that it will be convenient if the Domestic Violence Act proceedings is also tried by the Family Court, Kolhapur as per section 26 of Protection of Women from Domestic Violence Act, 2005. By consent, the said matter is also transferred from the Court of Judicial Magistrate, First Class, Kolhapur vide Application no.43.2017 to the Family Court, Kolhapur for trial alongwith HMP.

(f) In both matters, parties shall appear before the Family Court, Kolhapur on **25.9.2018**. The concerned Courts shall transmit the records to the Family Court, Kolhapur at the earliest.

{A.M.DHAVAL, J}