

MISCELLANEOUS CIVIL APPLICATION No. 75 OF 2018

Mrs. Snehal Deepak Jadhav ... Applicant
Vs.
Deepak Ganpat Jadhav ... Respondent

Mrs. Seema Sarnaik, for the Respondent.

CORAM : A. M. DHAVALA, J.
DATE : SEPTEMBER 5, 2018

PC :-

1. By this application, which is filed under S. 24 of Civil Procedure Code, Applicant-wife seeks transfer of Marriage Petition No. 1039 of 2017, pending in the Court of Civil Judge, Sr. Division, Kalyan to the court of Civil Judge, Sr. Division, Islampur, district Sangli, on the ground that she is staying at Islampur and she has no source of income.
2. Heard the learned counsel for the parties. Parties have entered into marriage on 23.11.2009 at village Shirala,

district Sangli and thereafter till August, 2016 they cohabited at Kalyan. The Applicant beget two children, who are now of aged 6 and 5 years. Since August, 2016 parties are residing separate. The husband is serving on a temporary job and earning Rs. 15,000/- per month in the vicinity of Kalyan. the applicant is a housewife. She had filed proceeding under the D. V. Act at Islampur. It is rejected on 11.10.2017. The criminal appeal against the same is pending in Islampur Court. The reply of the husband shows that wife is having psychiatric problems and she was under treatment without knowledge to him. Copy of the petition filed by him shows some serious allegations about her behaviour as a psychiatric patient.

3. Learned advocate Mrs. Sarnaik submits that wife is unemployed and she can travel alone. The distance between Kalyan and Islampur is about 300 Kms. She has no source of income, and therefore, divorce petition should not be transferred to the court at Islampur. She strongly opposed the application. She has argued that the wife has left her husband without any

reason. She has left the children with the husband. The divorce proceeding is filed earlier and thereafter she has filed proceeding under the D. V. Act, in which allegations could not be substantiated and the same has been rejected. She has also visited husband's house thrice; once alone and twice with her relatives, to meet her children. Therefore, there is no necessity to transfer the petition. The respondent is earning Rs. 15,000/- and is on a temporary job, he will not get leave frequently, and if he remains absent on account of litigation, he will have to lose the job and will not be able to bear the expenses of the litigation.

4. After considering the arguments, I find that as laid down in *Sumita Singh Vs. Kumar Sanjay*¹, normally, convenience of the wife should be considered. In the present case, the applicant is unemployed and the husband is employed, though on a low salary. The distance between her place of residence and the court where divorce proceeding is filed, is about 300 kms. Apart from the grounds raised for transfer, I

1 AIR 2002 SC 396

find that the contentions raised by the husband in his petition regarding strange behaviour of the wife under the psychiatric problem is most material. I find that it is not safe to call upon the applicant on each date from Islampur to Kalyan. The financial position of the husband is not so strong, so that he can bear reasonable expenses of the applicant, her mother or brother for travelling and residence. Considering all the facts, learned advocates agree that parties should consider option of going for mediation for resolving the dispute. In the light of the facts, I find that wife cannot be asked to attend the Court at Kalyan, considering her psychiatric problems. Hence, the application deserves to be allowed. At the same time, problems faced by the husband will have to be considered. Hence, the following order.

ORDER

- (i) Marriage Petition No. 1039 of 2017 pending on the file of Civil Judge, S. D. Kalyan is hereby transferred to the court of Civil Judge, S. D. Islampur, district Sangli. All records and proceedings of the said case

be transmitted to the court of Civil Judge, S. D. Islampur, immediately.

- (ii) Parties are directed to remain present before the court of Civil Judge, S. D. Islampur on 4th October, 2018.
- (iii) Civil Judge, S. D. Islampur is directed to take into consideration the use of video conferencing for conducting the matter, and as far as possible, actual trial should be taken as per the convenience of the parties in a week or two or on day-to-day basis. He shall also explore the connectivity through internet. He may exempt the husband from attending the court except in cases where it is absolutely necessary.
- (iv) In case wife intends to take adjournment, she should give prior intimation to her husband and his advocate, before he starts his journey.

- (v) Parties shall cooperate the trial court for implementation of this order.
- (vi) Civil application stands disposed of in the aforesaid terms.

Sd/-
[A. M. DHAVALA, J.]

Vinayak Halemath