

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

MISCELLANEOUS CIVIL APPLICATION NO.848/2017

Smt. Shital W/o Dr. Amol Dahane

..Vs..

Dr. Amol S/o Anandkumar Dahane

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri Manish S. Gupta, Advocate for the applicant.
Shri R.J. Mirza, Advocate with Shri R.G. Mundhada, Advocate for the
non-applicant.

CORAM : Z.A. HAQ, J.

DATE : 17.4.2018.

Heard.

The applicant / wife seeks transfer of proceedings filed by the respondent under Section 12 of the Hindu Marriage Act which is pending before the Family Court at Amravati to the Family Court at Nagpur. The transfer is sought on the ground that application filed by the applicant / wife under Section 125 of the Code of Criminal Procedure is pending in Court at Nagpur and if the proceedings filed by the non-applicant / husband are transferred to the Court at Nagpur, inconvenience will not be caused to the non-applicant. Further ground is that the applicant is not in a position to attend the proceedings at Amravati because of financial difficulties.

According to the non-applicant / husband, the prayer made by the applicant need not be considered as

the proceedings under Section 12 of the Hindu Marriage Act are filed by the non-applicant at the behest of the applicant. Paragraph Nos.4, 5 and 6 of the written submissions filed by the non-applicant / husband are as follows:

“4. After some period, the respondent came to know that the applicant was in love relationship with one Vinit Pohare. He came to know that they got married secretly in 2014. The mobile phone of the applicant contained several photographs showing the above mentioned facts. These photographs show close and personal relationship of the applicant and said Vinit Pohare. The copies of the few photographs showing the above mentioned facts are annexed collectively herewith as Annexure-I. The Call Data Record (CDR) of the mobile phone of the applicant having number 8983645946 and said Vinit Pohare having number 9766616812 would show the fact that the applicant and said Vinit Pohare were in a regular touch even after the marriage of the applicant and the respondent. It is submitted that these facts were not disclosed to the respondent by the applicant before the marriage. The applicant has played fraud on the respondent.

5. The applicant subsequently told these facts to the respondent. She told him categorically that she could not live without Vinit Pohare and did not want to therefore spend her life with the respondent. She had asked the respondent to initiate the process of separation. The applicant had threatened the respondent that she would commit suicide and implicate the respondent and his family members.

6. It is submitted that in view of the

above, on 8th of August, 2016, the respondent has filed the A Petition No.164/2016 before the learned Family Court, Amravati under the provisions of Section 12 of the Hindu Marriage Act, 1955 against the applicant seeking declaration that the marriage is void.”

Admittedly, elder sister of applicant / wife is residing at Amravati. It is submitted on behalf of the non-applicant that he is willing to pay the expenses required by the applicant to attend the proceedings at Amravati.

I am conscious that the request, of the nature made in the present application, made on behalf of the wife should be normally granted, however, considering the facts of the present case, I am not satisfied that the applicant has made out a case for exercise of jurisdiction under Section 24 of the Code of Civil Procedure.

The application is **dismissed**. In the circumstances, the parties to bear their own costs.

JUDGE