

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

MISC. CIVIL APPLICATION NO. 1064 OF 2015

APPLICANT :-

Sonu Krushna Dharukar,
aged about 25 years, Occupation:Housewife,
R/o C/o Baluji Kale,Parsoda, Post Amravati
Camp Amravati, Tah. And Dist.Amravati.

...VERSUS...

RESPONDENT :-

Krusha Shyamppa Dharukar,
aged about 36 years, Occupation:
Agriculturist, R/o House No.15, Ward No.3,
Bazargaon, Tah. And dist. Nagpur.

Mr.S.N.Gaikwad, Counsel for the applicant.
Mr. Syed Dwais Ahmed, counsel for respondent

CORAM : M. S. KARNIK, J.

DATE : 25.06.2018.

ORDER:

1. Rule. Rule returnable forthwith.
2. This is an application filed by the applicant/wife for transfer of the Hindu Marriage Petition No.119 of 2015 pending before

Kavita.

the learned Civil Judge (Senior Division), Nagpur to the file of learned Civil Judge (Senior Division), Amravati .

3. The brief facts of the case are that:-

The marriage between the parties was solemnised on 12.03.2010. Out of the wedlock a male child by name Ganesh was born on 24.01.2012. It is the case of the applicant that due to some differences between the couple, she was thrown away by the applicant from the matrimonial home on 3.3.2013 and threatened her not to come back to the matrimonial home. It is the case of the applicant that the proceedings under Section 125 of the Code of the Criminal Procedure have been filed at Amravati before Judicial Magistrate, First Class bearing Misc. Case No. 23 of 2015 and the same is pending.

4. The application for transfer is opposed by the learned counsel for the respondent. In his submission , the non applicant is ready to resume cohabitation and in fact has on several occasions offered to the respondent to resume cohabitation on the terms which the applicant wants. In his submission, it is the **Kavita.**

applicant who is not willing to resume cohabitation and therefore, he had no option but to file the present proceedings for restitution of conjugal rights. In his submission the distance between Amravati to Nagpur is only 150 km and he is ready to bear reasonable travel expenditure. He submits that present application is filed only with a view to harass the non applicant. The non applicant is an agricultural labour and great inconvenience will cause to him if the proceedings will be transferred.

5. Considering the fact that the applicant is not receiving any maintenance and that she has to completely depend on her parents for livelihood of herself and her son who is 5 years of age, I am of the opinion that the present petition needs to be allowed.

6. The applicant has already filed the application under section 125 of the Code of Criminal Procedure for maintenance before the Judicial Magistrate First Class, Amravati bearing Mis.Cril. Application No.23 of 2015 filed on 23.6.2015 which the **Kavita.**

non applicant has been attending.

7. In this light of the matter, considering the fact that the applicant has to look after the child who is 5 years of age and is dependent on her parents for her livelihood, it would be in the interest of justice if the proceedings are transferred as prayed for.

8. The application is therefore allowed in terms of prayer clause (B). No order as to costs. Civil Application is disposed of.

9. Rule made absolute in the aforesaid terms. No costs.

JUDGE

Kavita.