

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
MISC. CIVIL APPLICATION NO.18 OF 2019

Smt. Sukeshani Vijay Gaikwad

Applicant

Versus

Vijay Motiram Gaikwad

Respondent

Mr.Ajinkya Dale, advocate i/by Talekar and Associates, for the applicant.

CORAM : RAVINDRA V. GHUGE, J.

DATE : 29th August, 2019

PER COURT:

1 On 18.02.2019, I had heard the learned advocate for the applicant and passed the following order:

"1 Leave to correct prayer clause 'B'.

2 The applicant prays for transferring HMP No.167/2018 from the Court of the learned Civil Judge, Senior Division, Khamgaon to the Court of the learned Civil Judge, Senior Division, Parbhani.

3 The applicant has married the respondent on 05/06/2014. A girl child was born on 16/05/2017, who is about 18 months of age

today. The applicant was subjected to severe physical and mental harassment by the husband and was driven out of her marital home.

4 The applicant has preferred a proceeding bearing PWDV Application No.147/2018 before the learned Chief Judicial Magistrate, Parbhani and has also preferred a Criminal Misc. Application No.581/2018 for seeking maintenance under Section 125 of the Cr.P.C. The husband is attending the Court with the proceedings at Parbhani.

5 It is submitted that the mother of the applicant is quite ailing. The applicant would require an adult member of her family for security and has to travel the distance of 250 kms. for attending the proceeding initiated by the husband. The 18 months old child cannot be kept alone at home as her mother is ailing.

6 Reliance is placed on the following judgments :-

1) Vaishali Shridhar Jagtap Vs. Shridhar Vishwanath Jagtap [2016] 14 SCC 356]

2) Sayali Swapnil Kuber Vs. Swapnil Harischandra Kuber [2014 (1) Mh.L.J. 584],

3) *Anjali Ashok Sadhwani Vs. Ashok Kishinchand Sadhwani [AIR 2009 SC 1374]*

4) *Mona Aresh Goel Vs. Aresh Satya Goel [AIR 200 SC 3512 (1)]*

5) *Sumita Singh Vs. Kumar Sanjay and Another [AIR 2002 SC 396]*

6) *Soma Choudhury Vs. Gourab Choudhary [2004 (13) SCC 462]*

7) *Bhagyashree Ganesh Trimbake Vs. Ganesh Shivling Trimbake (Order dated 13/03/2018 passed by this Hon'ble High Court in MCA No. 28/2017).*

7 *Issue notice to the respondent, returnable on 29/03/2019. Until then, the concerned Court shall adjourn HMP No.167/2018.*

8 *A spare copy for issuing notice to the respondent is tendered across the bar and the same is taken on record.*

2 Despite the service of Court notice, none appears for the Respondent. The name of the Respondent was pronounced in

the Court Hall. However, none has come forward to cause his appearance.

3 In view of the above, this application is allowed in terms of prayer clause (B). HMP No.167 of 2018 shall stand transferred from the Court of the learned Civil Judge, Senior Division, Khamgaon to the Court of the learned Civil Judge, Senior Division, Parbhani.

4 Since the proceeding filed by the wife is now posted on 04.09.2019 at Parbhani, the applicant shall appear in the transferred matter on the same date. Notice shall be issued to secure the presence of Respondent-husband. Liberty is granted to the Respondent-husband to seek common dates in all the matters so as to participate in all the matters in his common visit.

RAVINDRA V. GHUGE
JUDGE

adb/