

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

MISC.CIVIL APPLICATION NO. 31 OF 2018

**VAISHALI MANOJ PACHAWANE
VERSUS
MANOJ HARI PACHAWANE**

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Advocate for the Applicant : Shri Menezes Joslyn A.
Advocate for the Respondent -sole : Shri S.M.Pandit

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CORAM : RAVINDRA V. GHUGE, J.

DATED : 15th JANUARY, 2019.

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PER COURT :

1. When this Court issued notice on 27/02/2018, the following order was passed :-

"1. Learned counsel for the applicant wife submits that the applicant has a son aged three and half years and it is not possible for her to attend the dates in the court at Aurangabad. Learned counsel submits that the applicant has also filed an application for divorce in the Family court at Bandra. However, the respondent husband has filed HMP Petition No. A-272 of 2017 before the Family Court, Aurangabad for restitution of conjugal rights. In the application filed by the applicant in the court at Bandra the present respondent has also put his appearance.

2. *In view of above, issue notice to the respondent, returnable on 20.03.2018.*

3. *Till the next date of hearing, the further proceeding in HMP No. A-272 of 2017 pending in the file of Family Court Aurangabad are hereby stayed."*

2. The learned Advocate for the applicant - wife relies upon the following judgments in support of her request to transfer the proceedings to the Family Court at Bandra :-

- 1) *Vaishali Shridhar Jagtap Vs. Shridhar Vishwanath Jagtap [(2016) 14 SCC 356]*
- 2) *Anjali Ashok Sadhwani Vs. Ashok Kishinchand Sadhwani [AIR 2009 SC 1374]*
- 3) *Mona Aresh Goel Vs. Aresh Satya Goel [AIR 2000 SC 3512 (1)]*
- 4) *Sumita Singh Vs. Kumar Sanjay and Another [AIR 2002 SC 396]*
- 5) *Soma Choudhury Vs. Gourab Choudhaury [2004 (13) SCC 462]*
- 6) *Bhagyashree Ganesh Trimbake Vs. Ganesh Shivling Trimbake [Order dated 13/03/2018 passed by this Hon'ble High Court in MCA No. 28/2017]*

3. It is further submitted that the applicant has filed HMP

No. A-2187/17 before the Family Court at Bandra. The respondent - husband attends the said proceeding. The proceeding initiated at Aurangabad could be transferred since it would be the same Family Court, Bandra which would deal with his proceeding. They can be posted on common dates in order to suit the convenience of the husband.

4. The learned Advocate for the husband has opposed this application. Contention is that he is without an employment. He denies that he is an alcoholic. He denies that he compelled the applicant to seek a job of a nurse on contractual basis so as to support his drinking habit. He submits that in the proceedings filed by the wife, he travels to Mumbai and in the proceeding filed by him at Aurangabad, his wife can travel to Aurangabad.

5. I have considered the judgments cited in the light of the contentions of the litigating sides. The applicant has alleged that the respondent - husband is addicted to drinking and has been physically abusing her. It is stated that he used to assault her under the influence of liquor and she was medically advised by the doctor to terminate her second pregnancy

because of the beating suffered by her. The husband denies all this.

6. It is, therefore, obvious that as the husband attends the proceedings at Mumbai, transferring of the proceedings initiated by him would be suitable as he could attend the proceedings on common dates. Per contra, the applicant would be required to take leave from her contractual job, would have to carry her son alongwith her and an adult member of the family for security so as to undertake a journey to Aurangabad which would require two overnight travels.

7. In view of the above, this application is allowed. HMP No. A-272/2017 filed by the respondent - husband shall stand transfer to the Family Court at Bandra. As the proceedings initiated by the wife are scheduled on 04/02/2019, the respondent and the applicant would appear on the same date in the transferred proceeding before the same Family Court at Bandra.

(RAVINDRA V. GHUGE, J.)

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