

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

MISC.CIVIL APPLICATION NO.46 OF 2019
(Priya @ Piyusha Kunal Khedkar Vs. Kunal s/o Bhagwan Khedkar
and another)

Mr.Y.D.Kale h/f Mr.R.R.Karpe, Advocate for the applicant.
Mr.N.D.Batule, Advocate for respondent No.1.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 07/06/2019

PER COURT :

1. On 06/03/2019, I have passed the following order :-

"1. The applicant wife prays for transferring HMP No. 1411/2018 from the Family Court, Pune to the Court of the learned Civil Judge Senior Division, Shrirampur.

2. Grievance is that, after the marriage in 2013, the applicant was being illtreated, harassed and physically tortured. Demand for dowry used to be made. Consequently, she was driven out of her marital home and was told not to return until she brought dowry. She is residing with her aged parents. Distance between Pune and Shrirampur is about 110 kms. and an adult member of family has to accompany her. She has herself preferred HMP No. 145/2018 at Shrirampur and the respondent husband attends the hearing.

3. Reliance is placed upon the following judgments :-

(i) Anjali Ashok Sadhwani Vs. Ashok Kishinchand Sadhwani, AIR 2009 SC 1374,

- (ii) Sayali Swapnil Kuber Vs. Swapni Harischandra Kuber [2014 (1) Mh.L.J. 584],*
- (iii) Soma Choudhury vs. Gourab Choudhaury (2004) 13 SCC 462,*
- (iv) Sumita Singh vs. Kumar Sanjay, AIR 2002 SC 396,*
- (v) Vennangot Anuradha Samir Vs. Vennangot Mohandas Samir, 2016 (1) LJSOFT (SC) 11,*
- (vi) Mona Aresh Goel Vs. Aresh Satya Goel, AIR 2000 SCW 2652,*
- (vii) Vaishali Shridhar Jagtap vs. Shridhar Vishwanath Jagtap, AIR 2016 SC 3584.*

4. *Issue notice to the respondent, returnable on 12/04/2019. Until then, the Family Court at Pune shall adjourn the proceedings, HMP No. 1411/2018.*

5. *The petitioner shall remove all office objections and copy of the petition paper book shall be supplied, on or before 13/03/2019, for issuance of notice, failing which this application shall stand rejected without reference to the Court on 14/03/2019.”*

2. When this matter was heard on 04/06/2019, 06/06/2019 and today, this Court had made an effort to find out as to whether the dispute between the married couple could be resolved. It was specifically put to the applicant to make a statement as to whether she desires to reside with respondent No.1, who is her husband.

3. It is stated that she is willing to reside with respondent No.1. Respondent No.1, however, has an objection in view of the fact that both of them (the married couple) are deaf and dumb. The applicant has extra marital relations with respondent No.2. On the one hand, she acted with cruelty towards the husband and on the other hand, used to continuously engage in texting respondent No.2. The brother of the husband had also personally seen the applicant with respondent No.2. He, therefore, submits that it is not possible for him to accept the applicant in this situation. He further submits that the applicant is not residing with respondent No.1/husband since 2016.

4. Considering the submissions of the learned AdvocateS for the respective sides and keeping in view that respondent No.2 sells snacks on the road side to make a living, it would have to be assessed as to who amongst the 2 would suffer greater hardships.

5. The applicant is presently residing with her parents at Shrirampur, which is at a distance of about 185 kms from Pune. Both the respondents herein reside at Pune. Respondent No.2 is a party to the proceeding initiated by the husband at Pune. In this backdrop, if the proceedings are transferred to Shrirampur, the respondent/husband as well as respondent No.2 will have to travel to Shrirampur to attend the said proceedings.

6. Considering the above, I find that if all the proceedings are transferred to the same Court at Ahmednagar, it would be suitable for all the parties as their travelling distances would be reduced. A Family Court has been established at Ahmednagar.

7. In the above backdrop, learned Advocates for the applicant/wife and respondent No.1/husband agree that all the matters filed by both of them at Pune and Shrirampur could be transferred to the Family Court at Ahmednagar. Respondent No.2 has chosen to remain absent before this Court.

8. In view of the above, this application is allowed. HMP No.1411/2018 filed by the husband before the Family Court at Pune would be transferred to the Family Court at Ahmednagar. Similarly, HMP No.145/2018 filed by the applicant/wife before the Court of the learned Civil Judge, S.D., Ahmednagar shall be transferred to the learned Family Court at Ahmednagar.

9. Both the parties agree to appear before the Family Court at Ahmednagar on 12/07/2019.

(Ravindra V.Ghuge, J.)