

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

MISC.CIVIL APPLICATION NO.83 OF 2018

MONALI PANKAJ PATEL
VERSUS
PANKAJ RASIKLAL PATEL

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Advocate for the Applicant : Shri Patil Prakashsing B.

Advocate for the Respondent : Shri Surve Hemant.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 24th April, 2019

Per Court:

1 This Court (Coram : V.K.Jadhav, J.) had considered the submissions of the learned Advocate for the Applicant/ wife and had passed the following order on 19.04.2018 :-

- "1. *Learned counsel for the applicant submits that the applicant has initiated proceedings under the provisions of Protection of Women from Domestic Violence Act 2005 and also filed a complaint under Section 498-A of I.P.C. against the respondent at Dhule. Learned counsel submits that the applicant has a small daughter of three and half years (3 ½) old, suffering from walking disability and it is thus difficult for the applicant to travel the distance of 175/200 kilometers from Dhule to Malkapur to attend the court dates. Further, the old aged father of the applicant also met with an accident and at present he is almost bedridden. Thus, there is nobody in the family to accompany the applicant to attend the court dates at Malkapur.*
2. *In view of above, issue notice to the respondent,*

returnable on 21.06.2018.

3. *Till the next date of hearing, further proceedings in H.M.P. No. 54 of 2016 pending before the Civil Judge, Senior Division, Malkapur are hereby stayed."*

2 The learned Advocate appearing on behalf of the Respondent/ husband refers to the affidavit in reply filed by him and specifically draws my attention to the order dated 01.10.2016 from page numbers 75 to 79, which is passed by the Trial Court in the same HMP No.54/2016 below Exhibit 9 filed by the wife, granting maintenance of Rs.6000/- per month to the wife along with Rs.5000/- towards expenses. This fact was not brought to the notice of this Court when the order was passed on 19.04.2018. So also, there is no statement made in the memo of the application disclosing this fact.

3 Considering the above, I am of the view that this Miscellaneous Civil Application deserves to be rejected with heavy costs in the light of the law laid down by the Honourable Supreme Court in the matters of *Kishore Samrite v/s State of Uttar Pradesh, (2013) 2 SCC 398* and *Bhaskar Laxman Jadhav and others vs. Karamveer Kakasaheb Wagh Education Society and others, (2013) 11 SCC 531* laying down the law that the litigant has to disclose all facts to the court and the litigant does not have the prerogative of deciding which fact he would narrate and which fact he would hold back from the court.

4 The learned advocate for the applicant/ wife submits that the applicant tenders an apology and further monthly maintenance granted vide order dated 01.10.2016, may not be paid to the applicant from May, 2019 until HMP No.54/2016 is decided.

5 The learned advocate for the respondent/ husband submits, on instructions, that this Court may transfer the said proceeding to the learned Civil Judge, Senior Division, Dhule or the Family Court, Dhule, as the case may be, and a time frame may be imposed for the decision in the said proceeding. He further submits that since there are two other proceedings instituted by the wife at the courts at Dhule, liberty may be granted to the husband to seek common dates in all these proceedings so as to participate in the said proceedings in common visits.

6 Considering the above, I am not imposing costs on the applicant/ wife, except that the applicant is cautioned that henceforth any act of suppression of facts shall be viewed by the concerned court, which notices the same, strictly.

7 In view of the above, this Miscellaneous Civil Application is allowed. HMP No.54/2016 shall stand transferred to the learned Civil Judge, Senior Division, Dhule or the Family Court, Dhule, as the case may be. Both the litigating sides shall appear before the concerned court, where the proceedings are transferred, on 07.06.2019. As the matter is at the stage of cross examination of the husband at the hands of the wife, the

wife shall be precluded from seeking an adjournment on the said date. So also, all the three proceedings at the courts at Dhule shall be posted on common dates as per the choice of the husband so that it would be convenient for him to participate in the said proceedings in his common visits. The learned Court dealing with HMP No.54/2016 shall decide the said proceeding expeditiously and in any case, on or before 29.02.2020.

8 On the request of the husband, liberty is granted to approach the appropriate court/ authority/ forum for seeking clubbing of the proceeding under the Protection of Women from Domestic Violence Act, 2005 and the complaint under Section Section 498-A of the Indian Penal Code.

9 Needless to state, the monthly maintenance being paid by the husband to the wife, shall not be paid from May, 2019.