

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

MISC.CIVIL APPLICATION NO. 159 OF 2019

PRIYADARSHANI RAHUL PHALKE
VERSUS
RAHUL ANNASAHEB PHALKE

...
Advocate for the Applicant : Shri P. V. Barde
Advocate for the Respondent -sole : Shri N. T.
Tribhuvan

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CORAM : RAVINDRA V. GHUGE, J.

DATED : 26th NOVEMBER, 2019.

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PER COURT :

1. I have heard the learned Advocates for the respective sides, extensively. The reasons for the failure of the mediation need not be recorded in this order.

2. The applicant wife seeks transfer of proceedings. These parties were earlier before this Court in MCA No. 134/2017. By the impugned order dated 20/09/2017, the MCA was disposed off by recording the willingness of the husband to pay Rs. 5,000/- on each date before the Trial Court towards travelling charges for the

applicant and an escort, from Latur to Aurangabad, which is a distance of 250 kms.

3. The learned Advocate for the applicant has expressed a serious grievance about the manner in which the applicant has to undergo identification and verification before receiving the amount towards the journey. Her father, who used to earlier accompany her, has recently undergone a surgery and is indisposed. He can no longer accompany the daughter.

4. It is submitted that in P.A. No. A-168/2017 filed by the respondent husband before the learned Family Court at Aurangabad, the stage is for recording of evidence of the mother of the applicant. The husband has concluded his evidence in the said proceedings.

5. The learned Advocate for the applicant submits that besides the mother being examined, there are four other witnesses, all hailing from Latur, who will have to be journeyed to Aurangabad for deposing

before the learned Family Court. It cannot be predicted as to how many visits for each witness would be required to make. There are in all four proceedings instituted by the wife at Latur. The husband attends the three proceedings as on date and notice will be issued in the last proceeding that has been recently filed.

6. It is, therefore, canvassed that when there are four proceedings at Latur which the respondent husband would have to attend, there is no purpose in maintaining one proceeding at Aurangabad and make the applicant and her mother travel to Aurangabad for the said matter.

7. Reliance is placed upon the following judgments:-

- (i) Vennangot Anuradha Samir Vs. Vennangot Mohandas Samir - 2016(1)Bom.C.R.250,
- (ii) Soma Choudhuri Vs. Gourab Choudhuri (2004)13 SCC 462,
- (iii) Anjali Ashok Sadhwani Vs. Ashok Kishinchand Sadhwani - AIR 2009 SC 1374,

- (iv) Vaishali Shridhar Jagtap Vs. Shridhar Vishwanath Jagtap - 2016 AIR (SC) 3584,
- (v) Sumita Singh vs. Kumar Sanjay -
(2001) 10 SCC 41 : AIR 2002 SC 396,
- (vi) Mahadevi Mehtre vs. Gopal - 2015 (5) AIR Bom. 250,
- (vii) Mona Aresh Goel vs. Aresh Satya Goel -
2000 (9) SCC 255 : AIR 2000 SCW 2652,
- (viii) Ravinder Kaur vs. Hitinder Singh - AIR 2000 SC 3403,
- (ix) Rena Gautam vs. Vinod Gautam - AIR 2000 SC 3405,
- (x) Reena Mehra vs. Rohit Rai Mehra - AIR 2003 SC 1002,
- (xi) Rakhi Banerjee vs. Subhankar Mukherje -
AIR 2009 SC 928,
- (xii) T.Gayatri Devi vs. Tallepaneni Sreekanth -
2013 (6) Bom. C.R. 119 (SC),
- (xiii) Anita Balkrishna Barge vs. Balkrishna Sopan Barge -
2011 (3) Bom. C.R. 866 (Aurangabad Bench) and
- (xiv) Smita Dhananjay Patil vs. Dhananjay Krishnakumar Patil -
2013 (5) Bom.C.R. 694 (Aurangabad Bench).

8. The learned Advocate for the husband submits that earlier he was in employment at Pune. The

marriage lasted for 15 days. All allegations made by the applicant in the MCA are baseless. He submits that the evidence of the husband in the Court at Aurangabad has already been concluded. The applicant has been cross examined. Her mother has now stepped into the witness box. In this backdrop, no purpose would be served in moving the proceedings at Latur. He would continue to pay the travelling charges as decided earlier in 2017.

9. The law is well settled that in matters of marital discord when the issue of transferring a proceeding occurs, the comparative hardships and the convenience of the parties have to be considered. In 2017, when the earlier MCA was disposed off by this Court recording the consent of the husband to pay Rs. 5,000/- per visit, the father of the applicant used to escort her. He has now suffered a surgery and he is said to be indisposed. The only option available now is for the mother of the applicant to accompany her to Aurangabad. Per contra, now there are four proceedings at Latur and the husband attends three

proceedings. Very soon he would be constrained to appear even in the fourth proceeding.

10. In this backdrop, I do not find that the inconvenience suffered by the respondent could be more than the inconvenience and grave hardships which the applicant would have to suffer. When four cases are already at Latur, the case at Aurangabad would as well be transferred and the husband could be given the option to have the cases posted on common dates so as to suit his convenience of visiting Latur.

11. In view of the above, this application is allowed. P.A.No.A-168/2017 shall stand transferred to the learned Family Court at Latur.

12. By the consent of the parties, they would appear before the learned Family Court at Latur on 12/12/2019. The husband would be at liberty to seek common dates in the matters at Latur so as to participate in all the proceedings in his common visits. Needless to state, the payment of amount of

Rs. 5,000/- by the order dated 20/09/2017, shall be discontinued forthwith.

13. The learned Advocate for the respondent husband prays for staying this order for four weeks. Now that the matter is to be taken to Latur and the date for appearance is 12/12/2019, the said request is rejected.

14. At this juncture, the learned Advocate for the husband submits on instructions from the client present in the Court that the transfer proceeding be made time bound, the applicant be directed to tender her list of witnesses forthwith on 12/12/2019 and the applicant be directed not to take adjournments on unreasonable grounds and to refrain from requesting for the clubbing of this matter with the new matters that she has filed.

15. The learned Advocate for the applicant wife submits on instructions that the said requests of the husband be accepted.

16. As such, the learned Family Court, Latur shall decide P.A. No. A-168/2017 as per the request of the parties, as expeditiously as possible and preferably on or before 30/04/2020. Since only four witnesses and the mother of the applicant are to be examined, the applicant wife would refrain from seeking unnecessary adjournments and shall co-operate with the Court.

(RAVINDRA V. GHUGE, J.)

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