

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

MISC. CIVIL APPLICATION NO. 211 OF 2018

**SARITA AMOL KALYANKAR
VERSUS
AMOL SURESH KALYANKAR**

...
Advocate for the Applicant : Shri B. S. Kudale
Advocate for the Respondent – sole : Shri H. V. Patil
...

CORAM : RAVINDRA V. GHUGE, J.

DATED : 27th MARCH, 2019.

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PER COURT :

1. On 20/10/2018, the following order was passed :-

"1 The applicant wife seeks transfer of HMP No. 179 of 2017, filed by the respondent / husband, from the Court of Civil Judge S. D. Osmanabad to the Court of Civil Judge S. D. Majalgaon.

2 The applicant is residing with her parents after being driven out of the marital home. She was harassed and tortured. An adult member of the family has to accompany her to attend the Court proceedings at Osmanabad.

3 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) Sayali Swapnil Kuber Vs. Swapnil Harischandra Kuber - [2014 (1) Mh.L.J. 584],*
- (vi) Nilima Vs. Pavansingh – LEX (BOM) 2011 9 193 and*
- (vii) Shila Nitin Rajure Vs. Nitin Marotiappa Rajure - MCA No.184 of 2017 (Aurangabad Bench), dated 9.1.2018.*

4 *Issue notice to the respondent, returnable on 14.12.2018. Until then, the trial Court will adjourn HMP No. 179 of 2017.*

5 *Copy of the paper book for issuance of notice shall be supplied and all objections shall be removed on/or before 30.10.2018, failing which this application shall stand rejected without reference to the Court on 31.10.2018."*

2. The learned Advocate for the respondent has strenuously opposed this application and prays for its dismissal with costs.

3. After this matter was heard for quite some time, the learned Advocate for the applicant wife details the status of her following cases :-

(a) Regular Criminal Case No. 27/2018 filed under Section 498A of the IPC, is pending before the learned Judicial Magistrate First Class, Wadwani.

(b) Criminal Misc. Application No. 69/2018 filed under the Protection of Women from Domestic Violence Act, 2005, pending before the learned Judicial Magistrate First Class Wadwani.

(c) HMP No. 16/2018 filed by the wife seeking restitution of conjugal rights, is pending before the learned Civil Judge Senior Division, Majalgaon.

4. The learned Advocate for the respondent, therefore, suggests that all the matters may be transferred to the competent Court at Beed since he has to travel only 90 kms. from Taluka Kada to Beed. He is a lecturer serving at Kada.

5. The applicant wife submits that instead of Beed, the matters be posted at Majalgaon since she has some relatives at

Majalgaon who can take care of her three years old child when she attends the hearing in the Court.

6. In the light of the above, I have called upon the applicant to amend the prayer clause, if so desired. The applicant agrees to carry out the amendment forthwith.

7. This application is, therefore, allowed. Consequent thereto, HMP No. 179/2017 shall stand transferred to the Court of the learned Civil Judge Senior Division, Majalgaon.

8. RCC No. 27/2018 shall stand transferred from the Court of the learned Judicial Magistrate First Class, Wadwani to the Court of the learned Judicial Magistrate First Class, Majalgaon.

9. Criminal M.A. No. 69/2018 shall similarly be transferred to the Court of the learned Judicial Magistrate First Class, Majalgaon.

10. HMP No. 16/2018 filed by the applicant is already before the learned Civil Judge Senior Division at Majalgaon.

11. Both the litigating sides shall appear before the Court of the learned Civil Judge Senior Division, Majalgaon in HMP No. 179/2017, after its transfer from Osmanabad, on 12/04/2019.

12. Both the parties are at liberty to request the respective Courts at Majalgaon to post all the matters on common dates at Majalgaon so that the parties can participate in the proceedings in common visits and the said requests shall be accepted.

13. The application filed by the applicant wife in HMP No. 179/2017 at Osmanabad, seeking travelling expenses, shall stand disposed off in the light of the above.

(RAVINDRA V. GHUGE, J.)

shp/-