

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

MISCELLANEOUS CIVIL APPLICATION NO.235 OF 2018

Kirti w/o Uday @ Surarshan Patil

Applicant

Versus

Uday @ Surarshan S/o Bhikan Patil

Respondent

Mr. P.R. Jadhav advocate for the applicant (absent)

Mr. G.J. Pahilwan h/f Mr.Shaikh Kayyum Najir, Advocate for Respondent

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CORAM : **RAVINDRA V. GHUGE, JUDGE**

(Date : 15th March, 2019)

PER COURT :-

1 On 26.11.2018, this Court had passed the following order:-

"1. The applicant/wife seeks transfer of Petition No.A-283/2018 pending before the learned Family Court at Aurangabad, filed by the Respondent/husband, to the Court of the learned Civil Judge, Senior Division, Jalgaon.

2 It is submitted that the marriage was solemnized on 06.03.2018 and within one month, the respondent/ husband and his relatives started physically assaulting the Applicant on account of demand of dowry. The Applicant/wife was driven out of the marital home after she was severally beaten up and since then, the Applicant is residing along with her parents. The distance between Aurangabad and Jalgaon is about 170 kilometers and the Applicant has to undertake a journey to attend the proceedings at Aurangabad along with an adult member of the family. The Respondent/Husband attends the proceedings at Jalgaon, which have been initiated by the Applicant/Wife.

3. Reliance is placed upon the following judgments:-

(a) Sunita Singh vs. Kumar Sanjay, (2001) 10 SCC 41: AIR 2002 SC 396.

(b) Mahadevi Mehtre vs. Gopal, 2015 (5) AIR

Bom.250.

- (c) *Mona Aresh Goel vs. Aresh Satya Goel, 2000 (9) SCC 255: AIR 2000 SCW 2652*
- (d) *Ravinder Kaur vs. Hitinder Singh, AIR 2000 SC 3403 (2).*
- (e) *Rena Gautam vs. Vinod Gautam, AIR 22000 SC 3405 (1)*
- (f) *Soma Choudhury vs. Gourab Choudhaury (2004) 13 SCC 462*
- (g) *Anjali Ashok Sadhwani vs. Ashok Kishinchand Sadhwani, AIR 2009 SC 1374.*
- (h) *Vaishali Shridhar Jagtap vs. S hridhar Vishwanath Jagtap, AIR 2016 SC 3584*

4. *Issue notice to the Respondent returnable on 11.01.2019.*

5 *Until then, the concerned Court would adjourn Petition No.A-283/2018.*

6. *The copy of the application paper book shall be supplied for issuance of notice, as well as, office objections, if any, shall also be removed, on or before 04.12.2018, failing which, th is application shall stand rejected without reference to the Court on 05.12.2018."*

2 The learned Advocate for the respondent-husband has opposed the application. An affidavit in reply is filed, in which, it is submitted that, the applicant is harassing the respondent. False and fabricated complaints and cases are being registered against him. The applicant does not desire to perform her marital obligation. The applicant can travel from Jalgaon to Aurangabad and attend the proceedings. The respondent husband has a lot of love and affection towards the applicant-wife. Yet, the applicant does not want to reside with him.

3 It is settled law that, in such matters, the convenience of the wife is normally taken into consideration, unless the husband can cite such reasons, which would indicate that, it would be impossible for him to travel to the place of choice the of wife and attend the Court proceedings. From the affidavit filed by the husband, I do not find any such reason having been put forth. So also, the husband is attending a proceeding at Jalgaon, which is initiated by the wife.

4 Considering the above, this application is allowed.

5 Petition No.A-283/2018 is transferred from the learned Family Court,Aurangabad to the Court of the learned Civil Judge, Senior Division, Jalgaon.

6 Since the other proceeding i.e. Cr. M.A. 100/2018 is posted on 27.3.2019 at Jalgaon, both the litigating sides would appear on the same date in the transferred proceedings. The husband would be at liberty to request the Courts at Jalgaon to post the proceedings on common dates so that he can participate in the said proceedings in his common visits to Jalgaon.

7 The Civil Judge, Senior Division, Jalgaon would consider referring the matter to a trained Mediator so as to explore the possibility of saving the marriage.

**(RAVINDRA V. GHUGE),
JUDGE**