

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

MISC.CIVIL APPLICATION NO.207 OF 2017

HARSHA NARENDRA INGALE
VERSUS
NARENDRA HARI INGALE

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Advocate for Applicant : Shri Savale Amit S.
Advocate for Respondent : Shri Sangeet L.V.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: July 01, 2019

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PER COURT :-

1. The applicant / wife seeks transfer of HMP No.256 of 2016, filed by the respondent / husband, from the court of the learned Civil Judge S.D. Bhusawal to the court of the learned Civil Judge S.D. Dhule.

2. It is contended that the marriage was solemnized on 7.6.2015. A male child was born out of the marriage in 2016. The husband filed the petition on 18.11.2016. HMP No.306 of 2017 is filed by the applicant in the court of the learned Civil Judge S.D. Dhule and the husband is attending the said proceedings. The proceedings under Section 498-A of the Indian Penal Code as well as under Section 125 of the Code of Criminal Procedure are pending at Shirpur. Unfortunately, the Court of Civil Judge S.D., which can deal with the

petitions under Hindu Marriage Act, is not available at Shirpur.

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) 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).

4. Learned Advocate for the husband has strenuously opposed this application. Contention is that the applicant travels from her village Waghadi to Dhule, which is a distance of 70 kms., for her restitution of conjugal rights matter. She travels from Waghadi to Bhusawal to attend the proceedings filed by him, which is a distance of 120 kms. The husband travels from village Kurha, Tq. Muktainagar to Bhusawal, which is 62 kms. and he travels to Dhule to attend the wife's proceeding which is 200 kms. He is suffering from Panic Attacks on account of the arrogant behaviour of the applicant / wife and her confession to the husband that she does not want to keep physical relations with him. Reliance is placed upon the judgment delivered in the case of Krishna Veni Nagam Vs. Harish Nagam - Transfer Petition (Civil) No. 1912 of 2014, decided on 9th March, 2017, as well as an order passed by this Court on 8.6.2017 in the matter of MCA No.76 of 2016 - Rashmi Milind Patil Vs. Milind

Baburao Patil.

5. It requires no debate that in such matters, the comparative hardships have to be considered. Despite the strenuous submissions of the learned Advocate for the respondent, I find that he already attends HMP No.306 of 2017 filed by the wife for seeking restitution of conjugal rights at Dhule. He attends the rest of the proceedings filed by the wife at Shirpur. It is unproductive to compel the wife to travel to Bhusawal in one proceeding filed by the husband, when he already travels to Shirpur and Dhule to attend the proceedings filed by the wife. I am, therefore, not inclined to accept the contention of the husband that the wife should also be made to travel to Bhusawal in one proceeding filed by the husband.

6. The husband contends that the wife has been paid Rs. 3,000/- towards household and travelling expenses. He points out the order dated 8.8.2017, passed by the trial Court at Bhusawal, thereby granting an interim alimony of Rs.3,000/- so as to enable the wife to maintain herself and her son. The said amount, according to the husband includes travelling expenses.

7. I find from the said order that the trial Court has directed the husband to pay interim alimony of Rs.3,000/- so that she can survive

with dignity and take care of the son and also meet the expenses for attending court proceedings. Learned Advocate for the wife submits that an amount of Rs.1,000/- can be reduced towards the travelling expenses.

8. Considering the above, this application is allowed. HMP No.256 of 2016, filed by the husband shall stand transferred to the Court of the learned Civil Judge S.D., Bhusawal and shall be posted for hearing on the same dates on which HMP No.306 of 2017 is posted for hearing. So also, since both the Marriage Petitions filed by the husband and wife are before the same Court at Dhule, the learned Court shall endeavour to decide both the proceedings as expeditiously as possible and preferably on/or before the 30th day of April, 2020.

9. Since the proceedings at Bhusawal were stayed by this Court on 15.1.2018 and there was no occasion for the wife to travel to Bhusawal, the reduction of Rs.1,000/- shall be effective from January, 2018 on the condition that the husband shall clear off all the arrears of dues / alimony by depositing the said amount before the Court at Dhule on/or before 31.7.2019. The learned Advocate for the wife is agreeable.

10. Both the parties agree to appear before the Court of the learned Civil Judge S.D., Dhule in their HMP proceedings on 31.7.2019 at 11.00 am.

(RAVINDRA V. GHUGE, J.)

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