

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

MISC. CIVIL APPLICATION NO. 253 OF 2018

ROHINEE AMOL BADGUJAR
VERSUS
AMOL RAMLAL BADGUJAR

Advocate for Applicant : Mr. S.R. Dheple.
Advocate for Respondent : Mr. S.H. Tripathi.

CORAM : RAVINDRA V. GHUGE, J.
Dated : 19.03.2019

PER COURT :

1. On 15.12.2018, when notice was issued to the respondent, this Court had passed the following order :

“1 The Applicant/ wife prays for transferring HMP No.87/2018 filed by the Respondent/ Husband before the learned Civil Judge, Senior Division, Bhusawal to the Court of the learned Civil Judge, Senior Division, Pune.

2 It is submitted that within a short period after the marriage was solemnized on 04.12.2017, the Respondent/ husband and his relatives started ill-treating and harassing the Applicant/ wife for one reason or the other. The Applicant/ wife was compelled to leave the marital home and since then, the Applicant is residing along with her parents. The distance between Bhusawal and Pune is about 395 kilometers and it requires two overnight journeys for the Applicant to attend the proceedings. Being a lady, an adult member of the family has to accompany her. Criminal Case under Section 12 of the Protection of Women

from Domestic Violence Act, 2005 is filed at Pune.

3 *Reliance is placed upon the following judgments :-*

(a) Sumita 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 2000 SC 3405 (1).

(f) Soma Choudhury vs. Gourab Choudhary (2004) 13 SCC 462.

(g) Anjali Ashok Sadhwani vs. Ashok Kishinchand Sadwani, AIR 2009 SC 1374.

(h) Vaishali Shridhar Jagtap vs. Shridhar Vishwanath Jagtap, AIR 2016 SC 3584.

(i) Reena Mehra vs. Rohit Rai Mehra, AIR 2003 SC 1002.

(j) Rakhi Banerjee vs. Subhankar Mukherje, AIR 2009 SC 928.

(k) T.Gayatri Devi vs. Tallepaneni Sreekanth, 2013 (6) Bom. C.R. 119 (Supreme Court).

(l) Anita Balkrishna Barge vs. Balkrishna Sopan Barge, 2011 (3) Bom. C.R. 866 (Aurangabad Bench).

(m) Smita Dhananjay Patil vs. Dhananjay Krishnakumar Patil, 2013 (5) Bom.C.R. 694

(Aurangabad Bench).

(n) Kalpana Pankaj Rozatkar vs. Pankaj Supadu Rozatkar, 2013 (6) Bom.C.R. 161 (Aurangabad Bench).

(o) Sayali Swapnil Kuber vs. Swapnil Harischandra Kuber, 2014 (1) Mh.L.J. 584 (Nagpur Bench).

4 *Issue notice to the Respondent returnable on 01.02.2019.*

5 *Till then, the concerned Court shall adjourn HMP No.87/2018.*

6 *The copy of the application memo for issuance of notice, if not already supplied, shall be supplied and the office objection, if any, shall also be removed on or before 21.12.2018, failing which, this application shall stand rejected without reference to the Court on 22.12.2018.”*

2. Learned advocate for the respondent/husband has opposed this application. He denied the allegations of ill treatment and demand of dowry. It is also denied that the applicant has no source of income. In fact, she is a Deputy Manager Planning in the Consultancy Company belonging to the respondent. In short, she is an employee of the respondent's company. Despite the marital discord, she is presently working.

3. I have called upon the learned advocates for the respective sides to suggest as to whether this matter could be referred to a Mediator so that a marriage could be saved. Keeping in view that both the parties are quite young in their mid-twenties and looking at the life ahead of them, the marriage could be saved by resolving the dispute. Unfortunately, both the learned advocates submit that they have tried for a settlement and have failed.

4. The record reveals that the applicant is residing at Pune. The husband claims to be residing at Bhusawal. The distance between Bhusawal and Pune is about 395 kilometers and would require two over nights journey to attend the proceedings. The proceeding initiated by the applicant under Section 12 of the Protection of Women from Domestic Violence Act, 2005 is pending at Pune.

5. It is settled law that in such matters, the hardships and inconvenience of the wife deserves consideration, unless the husband can indicate that it is impossible for him to attend the proceedings at the place of choice of the wife. The husband is already attending the proceedings initiated by the applicant at Pune.

6. In view of the above, this application is allowed. HMP No. 87/2018, stands transferred to the Court of the learned Civil Judge,

Senior Division, Pune. Both the litigating sides shall appear before the said Court on 05.04.2019. Needless to state, the husband is at liberty to seek common dates in both the matters so that he can attend the said proceedings in common visits.

(RAVINDRA V. GHUGE, J.)

S.P.C.