

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

MISC.CIVIL APPLICATION NO.260 OF 2018

PUNAM RAHUL PATIL
VERSUS
RAHUL ROHIDAS PATIL

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Advocate for the Applicant : Smt.P.A.Bhandari h/f Shri Bhandari Anand P.
Advocate for the Respondent : Shri Patil Paresh B.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 08th April, 2019

Per Court:

1 On 15.12.2018, when I issued notice to the Respondent/
husband, I had passed the following order :-

- "1 *The Applicant/ wife prays for transferring HMP No.61/2018 filed by the Respondent/ Husband before the learned Civil Judge, Senior Division, Chalisgaon to the Family Court at Dhule.*
- 2 *It is submitted that the marriage was solemnized on 02.06.2013 and out of the wedlock, the couple had one son, born on 24.09.2014. However, 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 Applicant/ wife has filed HMP No.145/2018 and also Special Civil Suit No.49/2018 and both these cases are transferred to the Family Court at Dhule. The Respondent/ husband attends the said proceedings.*
- 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.61/2018.*
- 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 The Respondent/ husband has entered an affidavit in reply dated 25.03.2019. He denies that the wife was treated cruelly or there was a demand for dowry. He submits that he is suffering from a knee problem and it would be difficult for him to travel from Chalisgaon to Dhule.

3 The law is well settled that in such matters and especially involving a marital discord, the convenience of wife has to be considered. While considering the comparative hardships, if the husband can cite a reason, which makes it impossible for him to travel to the place of choice of his wife for attending the legal proceedings, the case can be considered in a different perspective.

4 In the case in hand, two proceedings have already been transferred to the Family Court at Dhule and the Respondent/ husband attends the said proceedings. It would be a futile exercise to continue with one proceeding at Chalisgaon and compel the wife to attend the said proceedings when two proceedings are already being conducted in the Family Court at Dhule.

5 In view of the above, this Miscellaneous Civil Application is allowed. Hindu Marriage Petition No.61/2018 filed by the Respondent/ husband before the learned Civil Judge, Senior Division, Chalisgaon shall

stand transferred to the Family Court at Dhule.

6 It is informed that the proceedings before the Family Court at Dhule are posted on 16.04.2019. As such, these litigating sides shall appear before the Family Court at Dhule in the transferred proceeding on the same date. Formal notice need not be issued. The husband is at liberty to request the Courts at Dhule to post all the proceedings on common dates so that he can attend the proceedings in his common visits.

7 It is open to the litigating sides to have the dispute referred to a trained mediator in the Family Court at Dhule for exploring the possibility of saving their marriage.

kps

(RAVINDRA V. GHUGE, J.)