

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

MISC.CIVIL APPLICATION NO. 248 OF 2018

**PRIYANKA NITIN JADHAV
VERSUS
NITIN MOHANRAO JADHAV**

...
Advocate for the Applicant : Shri S. S. Tope
Advocate for the Respondent – sole : Shri P. B. Jadhav
...

CORAM : RAVINDRA V. GHUGE, J.

DATED : 06th MARCH, 2019.

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PER COURT :

1. While issuing notice on 12/12/2018, I had passed the following order :-

"1. The applicant wife prays for transferring Hindu Marriage Petition No.121/2018 filed by the husband, from the Court of the learned II Joint Civil Judge Senior Division, Hingoli to the learned Family Court at Jalgaon.

2. *It is stated that after the marriage was solemnized on 23/05/2017 after the brother of the applicant spent a huge amount for performing the marriage ceremony and gifts, the respondent, who has two medical shops having acquired the*

qualification of Diploma in Pharmacy, started harassing the applicant. She was physically and mentally illtreated and abused. The respondent husband used to administer certain pills to the applicant, due to which she started feeling uneasy and unhealthy. She was threatened that since the respondent is a pharmacist, he would administer her such pills that it would appear to be a suicidal death. Further, more allegations are set out in the application, which are not being reproduced in this order.

3. *The applicant is presently residing with her mother, who is rendered a widow. Her elder brother is the only source of income of her family, who is in private service at Pune and cannot take leave frequently. Her younger brother is not in any employment.*

4. *Reliance is placed upon the following judgments :*

(i) *Vennangot Anuradha Samir Vs. Vennangot Mohandas Samir [2016 (1) Bom.C.R.250],*

(ii) *Soma Choudhury Vs. Gourab Choudhaaury [(2004) 13 SCC 462],*

(iii) *Anjali Ashok Sadhwani Vs. Ashok Kishinchand Sadhwani [AIR 2009 SC 1374],*

(iv) *Vaishali Sridhar Jagtap Vs. Shridhar Vishwanath Jagtap [AIR 2016 SC 3584],*

(v) *Sayali Swapnil Kuber Vs. Swapni Harischandra Kuber [2014 (1) Mh.L.J. 584],*

(vi) *Nilima Vs. Pavansingh [2011 (4) Mh.L.R. 537],*

(vii) *Sushila Nitin Rajure Vs. Nitin Marotiappa Rajure (MCA No.184 of 2017 Aurangabad Bench, dated 9.1.2018).*

5. *Issue notice to the respondent, returnable on 08.02.2019. Until then, the concerned Court would adjourn HMP No. 121/2018.*

6. *Copy of the application paper book, shall be supplied, for issuance of notice, on or before 20/12/2018, failing which, this application shall stand rejected without reference to the Court on 21/12/2018."*

2. The learned Advocate appearing on behalf of the respondent husband has strenuously opposed this application. It is contended that Section 24 of the CPC is being misused by

the applicant for harassing the respondent. There is no reason to transfer the proceedings to Jalgaon. The applicant can undertake the journey by State Road Transport Bus and the distance of about 285 kms. is not too long.

3. The learned Advocate for the applicant wife adds that she has initiated a case under the Protection of Women from Domestic Violence Act, 2005 at Jamner. A case under Section 498-A of the IPC is also filed at Jamner. A complaint lodged with the Dakshata Commission which is a wing of the police department which resolves issues, is being considered at Jalgaon.

4. It is settled law that in such matters, the convenience of the wife is to be considered. Comparative hardships are to be assessed. If the husband can cite justifiable reasons for being unable to attend the proceedings at the place of choice of the wife, such proceedings can be looked at differently.

5. However, in the instant case, I do not find that the respondent has cited such reasons which would convince me

that the applicant wife should suffer hardships and travel to Hingoli for participating in the proceedings initiated by the husband. In fact, the husband is attending the proceedings at Jamner.

6. Considering the above, this application is allowed. HMP No. 121/2018 shall stand transfer from the Court of the learned II Joint Civil Judge Senior Division, Hingoli to the learned Family Court at Jalgaon.

7. The litigating sides shall appear before the Family Court, Jalgaon on 18/04/2019. Formal notices need not be issued.

(RAVINDRA V. GHUGE, J.)

shp/-