

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

MISC.CIVIL APPLICATION NO.271 OF 2018

BHAVANA YOGESH CHAUDHARY
VERSUS
YOGESH SANJAY CHAUDHARY

Mr.M.G.Kochar, Advocate for the applicant.
Ms.M.R.Dhat, Advocate for the respondent.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 03/08/2019

PER COURT :

1. On 07/01/2019, I had passed the following order :-

"1 The Applicant/ wife prays for transferring HMP No.99/2018 filed by the Respondent/ Husband before the learned Civil Judge, Senior Division, Chalisgaon, District Jalgaon to the Family Court at Aurangabad.

2 It is submitted that within a short period after the marriage was solemnized on 22.05.2017, 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 widowed mother at Aurangabad. The distance between Chalisgaon and Aurangabad is about 100 kilometers. There is no adult male member in

the family, who can accompany her.

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 15.02.2019.*

5 *Till then, the concerned Court shall adjourn HMP No.99/2018.*

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 15.01.2019, failing which, this application shall stand rejected without reference to the Court on 16.01.2019.”*

2. The learned Advocate for the respondent/husband has strenuously opposed this application. Contention is that neither the distance between the 2 cities is too large, which would be an impediment for the applicant to travel to Chalisgaon for attending the

proceedings filed by the husband, nor does the applicant have any justifiable reason for not being able to travel to Chalisgaon. Merely because the wife has filed this application, would not mean that the Court must only look at the convenience of the wife. She further submits that the wife has not initiated any proceedings at Aurangabad, which can be a ground for the transfer of the proceedings filed by the husband at Chalisgaon.

3. The Law on the point of transfer has been crystallized. Comparative hardships of the litigating sides have to be taken into account. It is informed that the applicant is a young lady and would require an adult escort to travel from Aurangabad to Chalisgaon, if she is to attend the proceedings filed by the husband. She is presently residing with her widowed mother, who can not undertake such journey on each date.

4. In view of the above, this application is allowed. HMP No.99/2018, filed by the husband, shall stand transferred from the Court of the learned Civil Judge S.D., Chalisgaon to the learned Family Court at Aurangabad. Both the litigating sides shall appear before the Court at Aurangabad on 30/08/2019 and formal notices are not required to be issued.

5. Considering that the differences between the couple are not too serious, except an apprehension voiced by the applicant today in the Court on the condition that it should not be recorded in the order, I find that the parties once again can make an effort to resolve the dispute amicably, notwithstanding the failure of the mediation proceedings in the High Court. Both are highly educated persons and one effort to resolve the dispute could be a worthy exercise. The learned Family Court, Aurangabad shall therefore make an attempt in this direction.

(Ravindra V.Ghuge, J.)