

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISC. CIVIL APPLICATION (ST.) NO. 3768 OF 2019**

Sou. Deepali Avinash Dhale Applicant

V/s.

Shri. Avinash Bhaskar Dhale Respondent

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Mr. Balwant V. Salunkhe for the Applicant.

Mr. Ketan Dhavle i/b Shriya Gune for Respondent

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**CORAM : K.K.TATED, J.
DATED : 30th AUGUST, 2019**

P.C.

1. Heard learned counsel for the parties.
2. By this application under Section 24 of Civil Procedure Code, 1908, the applicant wife is seeking transfer of divorce Petition No. 175 of 2018 filed by respondent-husband under Section 13 (i) (ia) and (ib) of Hindu Marriage Act, 1955 before the learned Civil Judge, Senior Division, Vaduj, Dist. Satara to the learned Civil Judge, Senior Division, Sangli, District. Sangli for hearing and final disposal on its own merits.
3. The learned counsel for the Applicant submits that, it is very difficult to travel from Sangli to Vaduj on each and every date to attend the matter. He further submits that, the applicant filed a Criminal Case No. 156 of 2017 before the learned Chief

Judicial Magistrate, Miraj under The Protection of Women From Domestic Violence Act 2005. He submits that, the same is pending for hearing on its own merits. He submits that in the aforesaid criminal case, applicant preferred an application for maintenance.

4. The learned counsel for Applicant submits that, though the learned Chief Judicial Magistrate, Miraj Court passed an order directing the respondent to pay maintenance, he failed to pay the same. As on today, more than Rs. 50,000/- is due and payable. He further stated that, after filing Criminal Case No. 156 of 2017 by the Applicant, the respondent filed a divorce petition in the month of December 2018 before the Civil Judge Senior Division, Vaduj. He submits that being subsequent proceeding filed by the respondent, same is required to be transferred at Sangli and to be heard on its own merits.

5. During the course of argument, Mr. Balwant V. Salunkhe, learned counsel for the Applicant submits that, the Criminal Case No. 156 of 2017 filed by the applicant before the learned Chief Judicial Magistrate, Miraj be transferred to Sangli Court for hearing and final disposal on its own merit.

6. The Learned Counsel for the Respondent vehemently opposed the present application. He submitted that the applicant

failed to make out any case for transferring the matter from Vaduj to Sangli Court. He submitted that, respondent is unemployed and he does not have any source of income. He is residing with his parents at Vaduj. He submits that, if the matter is transferred from Vaduj to Sangli, it will become impossible to attend each and every date at Sangli. Therefore, in the interest of justice this Hon'ble Court be pleased to dismiss the present application.

7. I heard both the sides. It is to be noted that, in the present proceeding, initially the applicant wife filed a Criminal Case No. 156 of 2017 before the learned Judicial Magistrate First Class, Miraj and same is pending for hearing and final disposal on its own merit. Though the learned Judicial Magistrate First Class, Miraj Court passed an order for maintenance, the respondent failed and neglected to pay the same. Apart from the applicant is house hold wife, she doesn't have any source of income. Therefore, It may not be possible for her to attend each and every date at Vaduj, in the divorce petition filed by Respondent.

8. Considering these facts, law declared by the Apex Court that, at the time of deciding the application under Section 24 of Civil Procedure Code 1908, convenience of the wife to be

considered, I am of the opinion that, the applicant has made out a case for allowing this Civil Application.

9. Hence, following order :-

: ORDER :

a) Hindu Marriage Petition No. 156 of 2017 filed by the respondent-husband under Section 13 (i) (ia) and (ib) of Hindu Marriage Act, 1955 before the learned Civil Judge Senior Division, Vaduj has transferred to learned Civil Judge Senior Division, Sangli for hearing and final disposal on its own merits.

b) Criminal Case No. 156 of 2017 filed by the applicant under Section 12 of The Protection of Women From Domestic Violence Act 2005 before the learned Judicial Magistrate First Class, Miraj is also transferred to the learned Civil Judge, Senior Division, Sangli for hearing and final disposal on its own merits.

c) Learned Civil Judge, Senior Division, Sangli to hear the divorce petition No. 175 of 2018 filed by the respondent-husband and Criminal Case No. 156 of 2017 filed by the wife together.

d) Miscellaneous Civil Application stands allowed accordingly.

e) No order as to costs.

(K.K.TATED, J.)