

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISCELLANEOUS CIVIL APPLICATION NO. 260 OF 2018

Smt. Shalaka Aniket Dhattrak	.. Applicant
Vs.	
Shri Aniket Arun Dhattrak	.. Respondent

Ms. Vaidehi Odhekar, for the Applicant.
Mr. Ketan Joshi, for Respondent.

CORAM : M.S.KARNIK, J.

DATE : 08th APRIL, 2019

P.C. :

. Heard learned Counsel for the applicant and respondent.

2. This application is filed by the wife for transfer of Divorce Petition No. 664 of 2018 pending on the file of the Principal Judge, Family Court, Pune to the Court of the Principal Judge, Family Court, Dhule. It is the case of the wife that the marriage was solemnized on 03/12/2016 at Dhule. Thereafter

the parties resided at matrimonial home at Pune till 29/01/2017. The wife alleges cruelty and ill treatment at the hands of the respondent and his family members. It is alleged that wife was restrained from entering the matrimonial home and therefore she had no option, but to come back to Dhule and start residing with the parents.

3. Some time in November 2017, wife had filed Regular Civil Suit No. 307 of 2017 before the Court of Civil Judge, Senior Division, Dhule for maintenance under Section 18 of the Hindu Adoptions and Maintenance Act, 1956. Thereafter, the husband filed Petition for divorce under section 13(1)(ia) of the Hindu Marriage Act 1955 before the Principal Judge, Family Court at Pune. The said Petition was filed on 14/05/2018. Learned Counsel for the petitioner would contend that she is residing with her parents. The petitioner is unemployed and has to depend upon her parents for livelihood. She submits that the distance between Dhule and Pune is almost 250 km and therefore it is very inconvenient for her to attend divorce

proceedings at Pune.

4. Learned Counsel for the respondent on the other hand opposed the application. He would submit that the petitioner can conveniently attend the proceedings at Pune. Learned Counsel, on instructions, submits that respondent even is willing to bear expenses of the petitioner for attending the Court proceedings at Pune. He invited my attention to the order dated 03/09/2018 which is at page 48 of the paper-book. He would submit that in the Criminal Writ Petition filed before the Aurangabad Bench of this Court by the family members of the petitioner, the Hon'ble Court was pleased to transfer the proceedings in Regular Criminal Case No. 513 of 2017 on the file of the Judicial Magistrate, First Class, Dhule to the Court of Chief Judicial Magistrate, Pune for the reasons mentioned therein. He also invites my attention to the order dated 07/01/2019 passed by this Court whereby an application made by the petitioner for transfer of Complaint from the file of Judicial Magistrate First Class, Pune to the file of the Judicial

Magistrate First Class, Dhule is rejected. He would thus submit that there are some proceedings pending at Pune and there are some proceedings pending at Dhule. In this view of the matter, learned Counsel would submit that the applicant is in any way required to attend criminal proceedings at Pune and therefore present application for transfer need not be entertained.

5. I have heard learned Counsel for the parties. I find that the wife filed proceedings under section 18 for maintenance before the Civil Judge, Senior Division, Dhule in November 2017. The Husband filed the Petition for divorce in the Family Court at Pune on 14/05/2018. The applicant is residing with her parents at Dhule. The applicant is without any source of employment. The respondent on the other hand is working with the Income Tax Department. As regards the transfer of the criminal proceedings from Dhule to Pune relied upon by learned Counsel for the respondent, I find that the same being criminal proceedings are transferred in view of the cause of action which has taken place within jurisdiction of the Court at Pune. In this

view of the matter, I am not inclined to accept the contention of the learned Counsel for the respondent that even these proceedings should be transferred as the consideration for transfer of matrimonial proceedings is convenience of wife. Present proceedings of which transfer is sought are not the criminal proceedings. In this view of the matter, convenience of wife will have to be taken into consideration while transferring the matrimonial proceedings. The distance between Dhule and Pune is 250 km and therefore it is not convenient for the wife to attend the proceedings at Pune. Moreover, her application for maintenance which was filed at Dhule is prior in point of time to the husband's Petition for Divorce of which transfer is sought.

6. In this view of the matter, I am of the opinion that the wife is justified in contending that it would be of great inconvenience if the proceedings are not transferred. In the interest of justice therefore, the present application deserves to be allowed and is accordingly allowed in terms of prayer clause (a).

7. Application is disposed of.

(M.S.KARNIK, J.)