

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISC.CIVIL APPLICATION NO.22/2019

Priyanka Prasad Dixit ... Applicant.
Vs.
Prasad D. Dixit ... Respondent.

Mr.Kalpesh U. Patil, advocate for applicant.
Mr.Tejus S. Mahamuni, advocate for respondent.

CORAM : K.K.TATED, J.
DATED : JUNE 17, 2019.

P.C.

Heard learned counsel for parties.

2 By this application u/s 24 of C.P.C., applicant/wife is seeking transfer of Marriage Petition no.61/2018 filed by respondent no.1 u/s 13(1)(ia) of Hindu Marriage Act, for divorce before Civil Judge, Senior division, Panvel to Civil Judge, Senior division, Karad for hearing and final disposal on its own merits.

3. Learned counsel for applicant submits that present applicant is staying at village Saidapur, Taluka Karad. He submits that, it is very difficult for applicant to attend divorce petition filed by respondent at Panvel Court, on each and every date. He submits that distance between Karad and Panvel is more than 275 km. He further submits that there is no direct train from Karad to Panvel. He submits that to attend the matter at Panvel, applicant has to travel over night by bus which is very difficult for her being a lady. He submits that

applicant does not have support at present either financially or morally. Therefore, in the interest of justice, this court be pleased to transfer the marriage petition filed by respondent at Panvel to Karad, for hearing and final disposal.

4. Learned counsel for applicant further submits that applicant already filed Criminal Case no.230/2018 before Judicial Magistrate First Class, at Karad under 'Protection of Women from Domestic Violence Act',2005 u/s 12. He submits that in the said matter, respondent/husband is appearing. He further submits that one more case u/s 498-A of I.P.C. is pending. Therefore, in the interest of justice, this court be pleased to transfer the marriage petition from Panvel to Karad court.

5. Learned advocate for respondent no.1 vehemently opposed the present application. He submits that in present proceeding respondent/husband filed marriage petition for divorce on 7.2.2018 us 13(1)(ia) of the Hindu Marriage Act. Thereafter applicant filed application under Section 12 of Protection of Women from Domestic Violence Act, 2005 at Karad against applicant and his family members. Not only that applicant also filed complaint us 498-A of IPC at Panvel which is pending for hearing and final disposal on its own merits. He submits that if Hindu Mariage petition filed by respondent is transferred to Karad Court it will be very difficult for the respondent to attend each and every date there. He submits that respondent is doing service. He submits that respondent is ready and willing to bear travelling expenses of applicant if she attends Court at Panvel. In any case, complaint filed by

applicant u/s 498-A of I.P.C. is pending for hearing and final disposal on its own merits at Panvel. Therefore, there is no question of transferring present case from Panvel to Karad.

6. It is to be noted that during the course of arguments, applicant declined to refer the matter to the mediator to explore the possibility of settlement.

7. It is to be noted that, in the present proceeding, initially respondent filed divorce petition on 7.2.2018 before Panvel Court. Being counterblast, applicant filed Criminal Case no.230/2018 at Karad against respondent as well as his family members. Not only that, applicant also filed complaint u/s 498-A of I.P.C. at Panvel. Applicant has to attend the matter at Panvel also. This itself shows the intention of applicant. In any case, when the respondent/husband is ready and willing to bear all expenses of applicant as and when she attends matter at Panvel, I do not find any reason to entertain present application u/s 24 of CPC.

8. Hence, the following order.

- a) Application filed by wife u/s 24 of C.P.C. stands rejected.
- b) Liberty granted to applicant/wife, to make appropriate application at Panvel court as and when she attends the court, for her expenses including travelling, stay and for a person, if any, who accompanies her at Panvel.
- c) Civil application stands disposed of.

(K.K.TATED, J.)

