

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,****BENCH AT AURANGABAD****930. MISC. CIVIL APPLICATION No. 37 OF 2018**

Pratiksha W/o Shirish Shelke,  
age 26 years, occupation household  
R/o C/o Rajendra Ratnakar Waghmare (Ice Factorywale),  
at post Newasa Phata Tal. Newasa Dist. Ahmednagar,  
at present R/o Shitchhaya Housing Society, Block No. 11,  
Sector No. 26, Pradhikaran Nigdi, Pune - 411044 ...Applicant

**VERSUS**

Dr. Shirish Shashikant Shelke,  
age 37 years occup. Medical Practitioner  
R/o B-2/3, Kasliwal Park, behind Soham Motors,  
Mukundwadi, Aurangabad,  
at present R/o Santlook Hospital, Doctors quarters,  
Shrirampur Tal. Shrirampur Dist. Ahmednagar. ...Respondent

*Mr. G.G. Suryawanshi, Advocate for applicant.*  
*Mr. A.R. Kawade, Advocate for respondent.*

**CORAM : ROHIT B. DEO, J.**

**DATE : 7<sup>th</sup> January, 2020**

**ORDER :**

1. This application is preferred by Smt. Pratiksha seeking transfer of Hindu Marriage Petition No. A-423/2016, which is instituted by her husband Dr. Shirish, the non-applicant herein, from the Family Court, Aurangabad, to the Family Court, Pune.

2. This Court was of the view that the differences between the couple were not so serious as would justify the acrimonious litigation. Vide order dated 16<sup>th</sup> February 2019, the parties were

referred to mediation, which unfortunately failed.

3. Adverting to the facts, the marriage was solemnized on 13<sup>th</sup> July 2014 at Aurangabad. Dr. Shirish is an E.N.T. Surgeon, who was and is residing at Shrirampur. Perusal of the affidavit in response shows that Dr. Shirish is serving at Saint Luke's Hospital, Shrirampur.

4. Smt. Pratiksha contends that she was a student of B.C.A. Course at the time of marriage. She contends that she was treated cruelly at the matrimonial home. Certain serious allegations are levelled, which are strongly refuted by Dr. Shirish, who points out in the counter affidavit that Smt. Pratiksha admitted at one stage that the allegations levelled by her against her husband and in-laws were not true and that she left the house in anger.

5. It is not necessary to reproduce with particularity the rival contentions. This application is preferred by Smt. Pratiksha on the premise that it would be extremely inconvenient for her to attend the Family Court at Aurangabad, since she is pursuing her education at Pune and is even otherwise residing at Pune with her younger sister, Shubhangi Waghmare.

6. Smt. Pratiksha contends that she is not in a position to maintain herself and has, therefore, instituted proceedings under

Section 125 of the Criminal Procedure Code being Miscellaneous Criminal Application No. 1024/2017 in the Court of the Judicial Magistrate F.C., Pune, and her husband is duly served with the summons.

7. Dr. Shrish has filed an affidavit in response. A detailed reference is made to the conduct of Smt. Pratiksha and while refuting her allegations, Dr. Shirish has accused Smt. Pratiksha of several wrong doings.

8. Resisting the transfer, Dr. Shirish contends that the applicant has not given the details of the institution, in which she is undergoing the M.B.A course. It is further contended that the leave and licence agreement placed on record by Smt. Pratiksha may not be believed since she is not a signatory. Be it noted that the leave and licence agreement is signed by the sister of Smt. Pratiksha. It is further submitted that Smt. Pratiksha has not diligently prosecuted petition No. A-423/2016 and, therefore, no case is made out for transferring the said petition to the Family Court, Pune.

9. There cannot be a straight jacket formula for assessing the comparative hardships. In the present case, it is not denied that Smt. Pratiksha has no source of income. I do not see any reason to disbelieve the statement on oath that Smt. Pratiksha is residing at

Pune with her sister. That, Smt. Pratiksha has instituted proceedings under Section 125 of Cr.P.C. at Pune, is not denied. Dr. Shirish would, in any event, be attending the said proceedings at Pune. It is true, as is contended by the learned Counsel for Dr. Shirish, that convenience of both the parties must be looked into. However, while striking a balance between respective convenience or inconvenience, the fact that Smt. Pratiksha presently has no source of income and that the proceedings under Section 125 of Cr.P.C. are pending in the Court of the Judicial Magistrate F.C., Pune, in my considered view, must tilt the balance in favour of Smt. Pratiksha.

10. I am satisfied that a case is made out for allowing the application and accordingly, the application is allowed in terms of Prayer Clause "B", which reads thus:

*"B) May be pleased to transfer the proceeding of bearing Petition no. A 423/2016 filed by respondent for decree of divorce, which is pending before learned Family Court at Aurangabad, from Ld. Family Court Aurangabad to the learned Family Court, Pune, for its further proceedings and disposal."*

( ROHIT B. DEO )  
JUDGE