

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

MISC.CIVIL APPLICATION NO.96 OF 2018

MONA AJAY MILANI
VERSUS
AJAY LAKHAMICHAND MILANI

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Advocate for the Applicant : Shri Bangar Nilkanth P.
Advocate for the Respondent : Shri V.R.Dhorde h/f Shri Dighe Pravin S.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 20th February, 2020

Per Court:

1 By this Miscellaneous Civil Application, the applicant/ wife prays for transferring HMP No.613/2017 from the Court of the learned Civil Judge, Senior Division, Jalgaon to the Court of the learned Civil Judge, Senior Division, Beed on the following grounds :-

- (a) Distance between Beed and Jalgaon is about 400 kilometers.
- (b) An adult member of the family has to accompany the applicant.
- (c) A girl child born out of the marriage, who is about six years of age, is residing with the applicant/ wife.
- (d) The applicant was subjected to abuses, physical assault and demand for dowry at Jalgaon in her marital home and she

finds it frightening to visit Jalgaon for the court case.

- (e) HMP No.261/2014, which is a six years old litigation, filed by the applicant/ wife at Beed, is at the final stage and the respondent/ husband attends the said proceeding at Beed.
- (f) The proceeding under Section 125 of the Code of Criminal Procedure was conducted at Beed and is now decided. An appeal filed by the husband is also pending at Beed.
- (g) A criminal case was filed by the applicant/ wife under Section 498-A, 323, 504, 506 and 34 of the Indian Penal Code, at Beed. The acquittal of the respondent/ husband led to an appeal preferred by the applicant/ wife at Beed.

2 Reliance is placed on the following judgments in support of the request for the transfer :-

- (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) *Kalpna 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).*

3 The learned advocate for the respondent/ husband has strenuously opposed the application. He offers a proposal that all the

matters at Beed and Jalgaon can be transferred to Aurangabad and the husband would bear the S.T. bus fare for the applicant and one adult member of her family to travel from Beed to Aurangabad.

4 Considering that the distance between Beed to Aurangabad would be about 260 kilometers to complete the return journey, it was proposed that if the respondent/ husband agrees to pay an amount of Rs.2500/- per trip of the applicant along with an adult member as well as the girl child, the proceedings can be transferred to Aurangabad. Today, the learned advocate for the respondent/ husband submits, on instructions, that he is not agreeable. It is further added that the respondent runs a shop and is in business.

5 Considering the above and since there are proceedings already pending at Beed, which require the participation of the husband and as the proceeding filed by the wife seeking restitution of conjugal rights is six years old, I do not find that it would be appropriate to direct that the husband should attend the proceedings filed by the wife at Beed and the wife should attend the proceedings filed by the husband at Jalgaon.

6 Considering the comparative hardships, this Miscellaneous Civil Application is allowed. HMP No.613/2017 shall stand transferred from the Court of the learned Civil Judge, Senior Division, Jalgaon to the Court of the learned Civil Judge, Senior Division, Beed. Both the litigating

sides shall appear in the transferred matter on 24.03.2020 on which other matters between the parties are posted. Formal notices need not be issued.

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(RAVINDRA V. GHUGE, J.)