

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

MISC.CIVIL APPLICATION NO.125 OF 2019

SAYALI NILESH WADHE
VERSUS
NILESH SUDHAKAR WADHE AND ANOTHER

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Advocate for the Applicant : Shri Narvade Patil Ravindra B.
Advocate for Respondent 1 : Shri Y.H.Jadhav h/f Shri Nagori Girish

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 12th March, 2020

Per Court:

- 1 On 08.07.2019, I had passed the following order :-
- "1. The applicant/wife seeks transfer of HMP No. 61/2019, filed by the respondent/ husband, from the Court of the learned Civil Judge Senior Division, Bhusawal, to the Court of the learned Civil Judge Senior Division, Shrirampur.
 2. The applicant is residing with her parents after being driven out of the marital home. She was harassed and tortured. A girl child is born out of the said marriage. An adult member of the family has to accompany her to attend the Court proceedings at Bhusawal, which is about 300 kms. from Shrirampur.
 3. Reliance is placed upon the following judgments:-
 - (i) Vennangot Anuradha Samir Vs. Vennangot Mohandas, Samir - 2016(1)Bom.C.R.250,
 - (ii) Soma Choudhuri Vs. Gourab Choudhuri (2004)13 SCC 462,
 - (iii) Anjali Ashok Sadhwani Vs. Ashok Kishinchand Sadhwani - AIR 2009 SC 1374,
 - (iv) Vaishali Shridhar Jagtap Vs. Shridhar Vishwanath

- Jagtap - 2016 AIR (SC) 3584,
- (v) Sumita Singh vs. Kumar Sanjay - (2001) 10 SCC 41 : AIR 2002 SC 396,
 - (vi) Mahadevi Mehtre vs. Gopal - 2015 (5) AIR Bom. 250,
 - (vii) Mona Aresh Goel vs. Aresh Satya Goel -2000 (9) SCC 255 : AIR 2000 SCW 2652,
 - (viii) Ravinder Kaur vs. Hitinder Singh - AIR 2000 SC 3403,
 - (ix) Rena Gautam vs. Vinod Gautam - AIR 2000 SC 3405,
 - (x) Reena Mehra vs. Rohit Rai Mehra - AIR 2003 SC 1002,
 - (xi) Rakhi Banerjee vs. Subhankar Mukherje, AIR 2009 SC 928,
 - (xii) T.Gayatri Devi vs. Tallepaneni Sreekanth - 2013 (6) Bom. C.R. 119 (SC),
 - (xiii) Anita Balkrishna Barge vs. Balkrishna Sopan Barge - 2011 (3) Bom. C.R. 866 (Aurangabad Bench) and
 - (xiv) Smita Dhananjay Patil vs. Dhananjay Krishnakumar Patil - 2013 (5) Bom.C.R. 694 (Aurangabad Bench).
4. Issue notice to the respondent, returnable on 14/8/2019. Until then, the trial Court would adjourn HMP No. 61/2019.
 5. Copy of the paper book for issuance of notice shall be supplied on/or before 15/07/2019, failing which this application shall stand rejected without reference to the Court on 16/07/2019."

2 Today, the learned advocate for the respondent/ husband submits, on instructions, that the husband is working in a sensitive department, which is the Ordnance Factory at Warangaon, Taluka Bhusawal, District Jalgaon. He cannot be granted leave frequently for attending marital matters. No proceedings have been initiated by the wife at Shrirampur. Though there is a direct train, namely, Maharashtra Express from Shrirampur to Bhusawal, the husband is willing to pay an amount of Rs.7000/- towards traveling charges inclusive of lodging and

boarding at Bhusawal and an adult member of the family to accompany the wife.

3 He further submits that the applicant/ wife had developed an illicit relation with respondent No.2, who happens to be the friend of the husband and that was the cause for the marital discord.

4 The learned advocate for the applicant/ wife has opposed the said proposal and has denied the allegations.

5 The law is well settled that in such matters of transfer of proceedings involving married couples, comparative hardship and inconvenience of the parties have to be assessed. Normally, the law would favour a lady. However, if the husband is frequently required to travel to Shrirampur and is required to take frequent leaves, he might have to face difficulties in his employment. His parents reside with him and he has several liabilities. His monthly salary is about Rs.26,000/- and he is willing to pay Rs.7000/- per visit to the applicant/ wife so as to adjust her expenses of traveling to Bhusawal along with an adult member and for lodging and boarding.

6 Considering the above, I do not deem it appropriate to transfer the proceeding initiated by the husband, from Bhusawal to Shrirampur. This Miscellaneous Civil Application is, therefore, disposed off by recording the statement of the respondent/ husband with the following directions :-

- (a) The Trial Court, dealing with HMP No.61/2019, would grant one date in each month for the litigating parties in the said proceeding.
- (b) On the day on which the applicant/ wife remains present before the Court of the learned Civil Judge, Senior Division, Bhusawal, her attendance would be recorded by the Registry of the said Court and on the same date, the respondent/ husband would handover Rs.7000/- (Rupees Seven Thousand) in cash before the said Court and the applicant/ wife shall execute a handwritten receipt in acknowledgment of having received the said amount.

kps

(RAVINDRA V. GHUGE, J.)