

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

MISC. CIVIL APPLICATION NO.228 OF 2019

Sou. Supriya w/o. Mayur Jadhav,
Age - 30 years, Occ - Household,
C/o Gopalrao Chavan,
Presently R/at Tulsidham Bunglow No.4,
Sut Mill Road, Kokate Nagar,
Tal. & Dist. Latur - 413512

... Applicant

VERSUS

Shri Mayur S/o. Sitaram Jadhav
Age – 34 years, Occ. Service,
R/at Flat No.1204, B – wing,
The Address Society, Near Hingewadi Bridge,
Pune – Bangalore Highway (By-pass),
Wakad, Pune – 411057

... Respondent

...

Advocate for Applicant : Mr. Ashutosh S. Kulkarni

Advocate for respondent : Mr. Hemant Surve and Mr. Kshitij Surve

...

CORAM : MANGESH S. PATIL, J.

DATE : 02.12.2020

PER COURT :

By this application under Section 24 of the Code of Civil Procedure, the applicant wife is seeking transfer of a Divorce Proceeding preferred by the respondent husband pending in the Court of Civil Judge, Senior Division, Pune bearing M.P. No.986/2019 filed under Section 13 (1) (i-a) of the Hindu Marriage Act, 1955 to the Family Court at Latur.

2. The learned advocate for the applicant Mr. Kulkarni submits that the couple was married on 05.02.2018. For variety of reasons they

could not pull on. He drove her out of the matrimonial house on 11.06.2019 and she has come back to her parental home at Latur. He then preferred the Divorce Proceeding. The distance between the two places i.e. Latur and Pune is 350 k.ms. She would be put to inconvenience if she is to attend the Divorce Proceeding at Pune. Being a women her convenience should be paramount. Apart from economic burden she would be put to physical harassment as well if she is made to attend the proceeding at Pune.

3. The learned advocate Mr. Kulkarni then submits that during pendency of the present proceeding the petitioner has filed FIR on the basis of which a crime has been registered for the offences punishable under Section 498-A, 323 etc at Shivaji Nagar Police Station, Latur. She has also filed a proceeding claiming maintenance under Section 125 of the Code of Criminal Procedure before Magistrate at Latur and has also initiated a proceeding under the Protection of Women from Domestic Violence Act in a Court at Latur. He therefore submits that all these three subsequent proceedings would be tried at Latur. Consequently, it would be convenient even for the respondent husband to attend not only these proceedings but even the divorce proceeding at Latur. He would rely upon the decision of the Supreme Court in the Case of **Megha w/o. Madan Nayak Vs. Madan Rustumrao Nayak ; 2013 (4) Mh.L.J 442**

4. The learned advocate Mr. Surve for the respondent husband strongly opposes the application. He submits that it would be just and proper not only to consider the convenience of the applicant but the

inconvenience likely to be caused to the respondent as well. The learned advocate would then take me through the factual aspects in the form of pleadings in the divorce proceeding and would submit that the applicant is at fault for separation. She is a dentist and has commuted between Pune and Latur when the couple was together on number of occasions. She is professionally qualified and registered with Indian Medical Association and will not face financial difficulties in commuting between Pune and Latur for attending the divorce proceeding. As against this the respondent is in a private employment. The relations from the parental side of the applicant are politically influential. There is every possibility of the life and limb of the respondent being put to peril if he is made to go to Latur.

5. The learned advocate Mr. Surve then submits that the respondent is even ready to provide the applicant with necessary expenses for commuting between the two places. The learned advocate also submits that in case this Court decides to allow the application, all the matters may be clubbed and placed before the same court for decision according to law.

5. I have carefully gone through the papers. It is trite that convenience of a wife is the paramount consideration while considering the request for transfer of a matrimonial proceedings. True it is that the applicant is professionally qualified and may not face a financial crunch but then, it would indeed result in putting her to some hardship if she is made to commute between Latur and Pune for attending the divorce proceeding.

6. As against this, even if the divorce proceeding remains in the

Court at Pune the respondent husband will have to attend three other proceedings filed by the applicant at Latur. If this is so, even if the divorce proceeding is transferred to Latur with a rider that as far as possible all the matters to be listed on the same date, the hardship that is likely to be faced by the respondent would diminish to certain extent.

7. As far as the threat being perceived by the respondent, there is not enough material to substantiate his such perception.

8. Having considered all the above aspects, it would be just and proper to allow the application with a rider as mentioned herein above.

9. The Application is allowed. The M.P. No.986/2019 pending in the Court of Civil Judge, Senior Division, Pune is transferred to the Family Court at Latur. The parties shall appear before the Family Court at Latur on 04.01.2021 and there shall be no need for the Family Court to direct any notice to be issued to them.

10. All the proceedings pending between the parties in various courts at Latur shall, as far as practicable be listed by these courts on the same day. Copy of this order be sent to all the courts at Latur wherever the matters are pending between the parties.

(MANGESH S. PATIL, J.)