

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

MISC. CIVIL APPLICATION NO. 80 OF 2021

Sneha W/o. Sumit Khandare,
Age. 28 years, Occu. Nil,
C/o. Jayant Bhaskar Misal,
R/o. Misal Farm House, Ranmale Road,
Bibidarphal, Tq. Uttar Solapur,
District Solapur.

...Applicant.

Versus

Sumit S/o. Bharat Khandare,
Age. 28 years, Occu. Medical and General Store,
R/o. Sambhaji Nagar, Latur,
Tq. Latur, District Latur.

...Respondent.

Advocate for Applicant : Mr. Imran Khan h/f. Mr. A.R. Devkate.
Advocate for Respondent : Mr. P.D. Jarare.

CORAM : NITIN B. SURYAWANSHI, J.
DATE : 29.09.2021.

JUDGMENT :

1. At the outset, the learned Advocate for the applicant seeks leave to correct the proceeding number in prayer clause.
2. Leave is granted. Amendment to be carried out forthwith.
3. Rule. Rule made returnable forthwith. Heard with the consent of the parties.

4. By this application under Section 24 of the Civil Procedure Code, the applicant – wife seeks transfer of proceedings of Petition No. A 74/2020, pending on the file of learned Family Judge, Latur, to the Court of learned Family Judge, Solapur, District Solapur.

5. The marriage of applicant – wife and the respondent – husband was solemnized on 30.06.2017. On 13.10.2020, the husband filed petition No. A-74/2020, under Section 13 (1) (i a) of the Hindu Marriage Act, before the learned Judge of Family Court, Latur. In pursuance to the notice, the wife appeared in the matter. On 29.01.2021, issues are framed and the matter is now pending for evidence.

6. The applicant – wife seeks transfer of the said proceedings at Family Court, Solapur on the ground that distance between Solapur and Latur is 150 km and she has to attend the Family Court, Latur, along with her parents. According to her proceedings under Domestic Violence Act and 498-A of the Indian Penal Code, are filed at Solapur. Therefore, taking into consideration the fact that she is a lady and she is suffering from PCOD, the proceedings may be transferred.

7. Heard the learned Advocate for the wife. By placing reliance in *Sumita Singh Versus Kumar Sanjay and another*, **AIR 2002 SC 396**,

submitted that it is the wife's convenience is to be looked into at the time of deciding the transfer proceedings. He, therefore, submits that the present application deserves to be allowed.

8. Per contra, the learned Advocate for the respondent - husband submitted that there are criminal prosecution lodged by the husband against the parents and relatives of the wife for the offences punishable under Sections 405, 406, 415, 417, 418, 323, 504, 506 read with 34 of the Indian Penal Code and parents and relatives of the wife are highly influential and he has apprehension in attending the Court at Solapur. He further submits that he is ready to pay the expenditure of traveling of the applicant - wife for attending the matter at Latur. He, therefore, submits that no case is made out by the wife for transfer of the proceedings.

9. Legal position in transfer of matrimonial proceedings is well settled that convenience of wife is to be looked into at the time of deciding the transfer proceedings. *Sumita Singh* (supra) reiterates the said principle that wife's convenience must be looked at, at the time of deciding the transfer proceedings.

10. Taking into consideration the fact that the wife needs to be accompanied by the parents to travel at Latur to attend the proceedings of

Family Court, in the interest of justice and considering the convenience of wife, it is necessary to transfer the proceedings pending in the Court of Family Judge, Latur to Family Judge, Solapur.

11. In the result, Miscellaneous Civil Application No. 80/2021 is allowed in terms of prayer clause 'B'. The proceedings of petition No. A-74/20 pending in the Court of learned Family Judge, Latur, are transferred to the Court of learned Family Judge, Solapur, District Solapur.

12. Rule is made absolute in the above terms.

(NITIN B. SURYAWANSHI, J.)

S.P.C.