IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

MISCELLANEOUS CIVIL APPLICATION NO. 222 OF 2018

Sau. Bhagyashree w/o Chetan Pardeshi ...Applicant

versus

Chetan s/o Subhash Pardeshi ...Respondent

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Mr. A. S. Sawant, advocate for the applicant-wife
Mr. J. A. Menezes, advocate for respondent

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CORAM : V. K. JADHAV, J.
DATED : 12th JANUARY, 2021

PER COURT:-

1. By consent, heard finally at admission stage.

2. The applicant-wife is seeking transfer of HMP No. A-195 of 2018 pending before the Family Court, Aurangabad to the Family Court, Dhule for its disposal according to law.

3. Learned counsel for the applicant-wife submits that the applicant-wife is residing with her old aged parents at village Kusumba, which is at a distance of 30 kilometers from Dhule. The applicant-wife has also initiated a proceeding under the provisions of the Protection of Women from Domestic Violence Act, 2005 and the same has been registered as Criminal Misc. Application No. 727 of 2018 before the Chief Judicial Magistrate, Dhule. The applicant-wife

has also filed Marriage Petition No. 501 of 2018 before the Family Court, Dhule under Section 9 of the Hindu Marriage Act for restitution of conjugal rights. The applicant-wife has also initiated the proceeding under Section 125 of Cr.P.C. bearing Cri. Misc. Application No. 1139 of 2019 before the J.M.F.C. Dhule and all matters are pending for adjudication.

4. Learned counsel submits that the respondent-husband has filed H.M.P. No. A-195 of 2018 before the Family Court, Aurangabad under Section 13 of Hindu Marriage Act for decree of divorce. Learned counsel submits that the applicant-wife has to firstly travel from Kusumba to Dhule and thereafter from Dhule to Aurangabad. The applicant is a young lady and it is difficult for her to travel such a long distance every time to attend the court dates in the Family Court, Aurangabad. Learned counsel submits that the applicant-wife has aged parents and younger brother and every time it is not possible for the family members to accompany her for attending the court dates at Aurangabad. Learned counsel submits that in the said H.M.P. No. 501 of 2018 filed by the applicant-wife for restitution of conjugal rights, date is fixed for recording evidence of the applicant-wife. Learned counsel submits that if the H.M.P. bearing No. A-195 of 2018 filed in the Family court, Aurangabad seeking a decree of divorce by the respondent-husband is transferred to the Family Court at Dhule, it would be disposed of by the same court.

5. Learned counsel for the applicant-wife, in order to substantiate his submissions, placed reliance on the following cases:-

i) Sumita Singh vs. Kumar Sanjay and another, reported in AIR 2002 SC 396;

ii) Mahadevi Gopal Mehetre vs. Gopal Prabhakar Mehetre, reported in 2015 (5) AIR Bom R 250;

iii) Mona Aresh Goel vs. Aresh Satya Goel, reported in AIR 2000 SC 3512(1);

iv) Ravinder Kaur vs. Hitinder Singh, reported in AIR 2000 SC 3403(2);

v) Renu Gautam vs. Vinod Gautam, reported in AIR 2000 SC 3405 (1);

vi) Anjali Ashok Sadhwani vs. Ashok Kishichand Sadhwani, reported in AIR 2009 SC 1374;

vii) Vaishali Shridhar Jagtap vs. Shridhar Vishwanath Jagtap, reported in AIR 2016 SC 3584;

viii) Reena Mehra vs. Rohit Rai Mehra and another, reported in AIR 2003 SC 1002;

ix) Rakhi Banerjee vs. Subhankar Mukherjee, reported in AIR 2009 SC 928;

x) T. Gayatri Devi (Smt) vs. Tallepaneni Sreekanth (Dr.), reported in 2013 (5) All.M.R. 918;

xi) Anita Balkrishna Barge vs. Balkrishna Sopan Barge, reported in 2010 (6) All M.R. 685;

xii) Smita Dhananjay Patil vs. Dhananjay Krishnakumar Patil, reported in 2014 (1) AIR Bom R. 450;

xiii) Kalpana Pankaj Rozatkar vs. Pankaj Supadu Rozatkar, reported in 2013 (5) AIR Bom R 51;

xiv) Sayali w/o Swapnil Kuber vs. Swapnil Harischandra Kuber, reported in 2014 (1) Mh.L.J. 584;

6. Learned counsel for the respondent-husband submits that during the course of hearing of HMP filed by the respondent-husband in the Family Court, Aurangabad, the applicant-wife was working with an Industrial Unit at Aurangabad as Technical Assistant Engineer.

7. Learned counsel for the applicant-wife at this stage submits that the applicant wife has submitted her affidavit-in-rejoinder wherein, in para 8, it has been specifically stated that the certificate placed on record by the respondent-husband to that extent at page 51 dated 22.4.2019 is false and fabricated one. Learned counsel for the applicant-wife submits that the said certificate has been cleverly drafted and it has been stated in the said certificate that the applicant wife has served in the said Industrial Unit through one labour contractor on temporary basis. Even if any notice is issued to the said Industrial Unit to verify the said certificate in the light of the said

temporary appointment, through the labour contractor, no record will be made available.

8. Learned counsel for the respondent-husband submits that the applicant-wife is a well educated woman and she can travel the distance to attend the court dates. There is no reason to transfer the pending Hindu Marriage Petition wherein the Family Court, Aurangabad has recorded the evidence of respondent-husband.

9. Learned counsel for the applicant-wife submits that though this Court has granted interim stay to the further proceedings in the pending Hindu Marriage Petition in the Family Court, Aurangabad however, due to pandemic situation, the matter could not be prosecuted further and accordingly the present Misc. Civil application came to be dismissed for want of steps. It was restored subsequently, however, till that time since the order was communicated to the Family Court, Aurangabad, the evidence of the respondent-husband was recorded. However, the applicant-wife has not led any evidence so far.

10. It appears that, though the applicant-wife is highly qualified woman, however, she has to travel first from Kusumba to Dhule and thereafter from Dhule to Aurangabad for attending the court dates. The applicant-wife has already initiated various proceedings as detailed above in the courts at Dhule and the respondent-husband

has already put his appearance in those pending proceedings.

11. In the cases relied upon by learned counsel for the applicant-wife, it is reiterated by almost all the courts that in the matrimonial proceedings the convenience of wife therefore must be looked at.

12. Thus, considering entire aspects of the case and since the Hindu Marriage Petition filed by the applicant-wife bearing Hindu Marriage Petition No. 501 of 2018 for restitution of conjugal rights is also pending before the Family Court at Dhule, it would be just and appropriate if both the Marriage Petitions are heard and decided by the Family Court, Dhule to avoid the conflicting views. Hence, the following order:-

O R D E R

I. Miscellaneous Civil application is allowed in terms of prayer clause “B”.

II. Miscellaneous Civil application is accordingly disposed of.

(V. K. JADHAV, J.)

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