

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

MISC. CIVIL APPLICATION NO. 268 OF 2019
WITH
CIVIL APPLICATION NO. 5461 OF 2021

Rekha Deepak Fartade @ Rekha Bhausahab
Dhumal, Age : 32 Years, Occu: Household,
R/o. Saraswati Colony, Kannad,
Tq. Kannad, District Aurangabad.

..APPLICANT

VERSUS

Deepak Bhaskar Fartade,
Age : 35 Years, Occ. Service,
R/o. Plot No. 63, Sudarshan Colony,
Chakkar Bardi Road, Near
Shri. Krushna Temple, Dhule
Dist. Dhule.

.. RESPONDENT

....
Mr. Parag V. Barde, Advocate for the Applicant.
Mr. Rajat V. Patodi, Advocate for the Respondent.
....

CORAM : SANDEEP K. SHINDE J.

RESERVED ON : 19TH JUNE, 2021
PRONOUNCED ON : 23rd JUNE, 2021.

FINAL ORDER :-

1. Heard learned counsel for the parties.
2. Applicant-wife, has filed this application under Section 24 read with Section 151 of the Code of Civil Procedure, 1908 (hereinafter referred to as "C.P.C."), for transfer of the Marriage Petition A-No. 113/2019, filed by her husband-

respondent, from the Family Court, Dhule to the Court of learned Civil Judge, Senior Division, Aurangabad.

3. The brief facts of the case are that, the marriage of the applicant with the respondent was solemnized on 17th April, 2019. Both lived together at Dhule only till 25th May, 2019. The applicant would contend that she was subjected to harassment, suspecting character. Thus, contended that she involuntarily abandon the company of the respondent. Where after, since the month of May, 2019, she is living at Kannad, District Aurangabad. Applicant seeks transfer of the subject Petition A-No. 113 of 2019 on the ground that besides the inconvenience she has no source of revenue and thus not possible for her to attend the proceeding at Dhule. Next ground is that, the respondent being member of Central Reserve Police Force at Dhule, has muscle power. She apprehends and perceives threat to her life if she visits, Dhule to attend the proceedings, in the backdrop of the notice, that was issued to her by the respondent. In the said notice, there was a reference to some alleged obscene photographs of the applicant with Mr. 'X', which the respondent had threatened to circulate on social media.

4. On these grounds, the applicant contended that, it is not safe for her to travel to Dhule to attend the proceeding in the subject marriage petition.

5. Contradicting the submissions of the applicant, the learned counsel for the respondent-husband, submitted that, the applicant has not disclosed the complete facts to this Court, in as much as the applicant has instituted the proceeding against respondent in the Court of learned Judicial Magistrate, First Class, Kannad, District Auranagabad, under the provisions of Protection of Women from Domestic Violence Act, 2005. It is submitted in the said proceeding i.e. Criminal Misc. Application No. 231 of 2019, Rupees 5,000/- per month maintenance has been granted to the applicant. It is, therefore, submitted that one of the grounds on which the transfer is sought was incorrect.

6. Further it was, argued by counsel for the respondent that, the, applicant is M.Sc. Botany and pursuing her Ph.D. Degree. In so far as likely inconvenience to attend the proceeding at Dhule is concerned, learned counsel has pointed out that, distance between the Dhule and Aurangabad is approximately 100 Kms; and distance between Kannad and

Aurangabad is 60 to 65 Kms; and distance between Kannad to Dhule is 87 Kms. Submission is that even if the proceedings are transferred from Dhule to Aurangabad, the applicant may have to travel a 65 Kms. distance and therefore, the transfer of the proceeding from Dhule to Aurangabad would not make any substantial difference. Besides, it is the argued that, the respondent is willing to bear reasonable traveling expenses of the applicant.

7. Learned counsel for the parties have relied on large number of authorities, however, these authorities are based on facts of the respective cases and do not lay down any particular law which operate as precedence.

8. Insofar as the point of inconvenience is concerned, in my view, the transfer of proceeding from the Dhule to Aurangabad would not significantly curtail the travel distance, for the simple reason that even if proceedings are transferred to Aurangabad, the applicant may have to travel 65 Kms from Kannad to Aurangabad, as against the 87 Kms. from Kannad to Dhule. Therefore, the ground of inconvenience for seeking a transfer is rejected.

9. Insofar as the ground suggesting her inability to travel Dhule for want of source of revenue is concerned, it may be stated that the applicant in her application/ petition did not disclose maintenance granted to her by the learned Judicial Magistrate, First Class, Kannad in the proceeding initiated by her against the respondent under the Protection of Women From Domestic Violence, Act, 2005. Non disclosure of this fact, is to be weighed against the applicant.

10. Yet another ground of supposed threat, is concerned, except the allegations in notice, there is no material to apprehends her perception. Even, otherwise, since after applicant abandoned the respondent, applicant has not been intimidated. This ground is rejected.

11. It may be noted that, although the applicant has been granted maintenance Rs. 5,000/- per month, the respondent shall bear the traveling expenses of the applicant/petitioner and the learned trial Court to ensure that the applicant has been paid Rs. 1000/- (Rupees One thousand) by the respondent, on her each and every occasion, when she is required to attend the Court at Dhule.

12. For the reasons stated above, no ground is made out for granting the application. Hence, the application stands rejected.

13. All Civil Applications are disposed off.

(SANDEEP K. SHINDE, J.)

YSK/