

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISCELLANEOUS CIVIL APPLICATION NO.107 OF 2021

Pranali Pravin Pisat

.. Applicant

Versus

Satish Jalandar Jadhav

.. Respondent

...

Mr. Mayuresh Modgi for the applicant.

Mr. Amrut M. Vernekar for the respondent.

CORAM: BHARATI DANGRE, J.

DATED : 29th NOVEMBER, 2021

P.C:-

1 By the present application, the applicant wife seek transfer of proceedings filed by the respondent husband in form of Petition No.A-245 of 2021 to the Court of Civil Judge, Jr. Division, Mahad where she is presently residing.

2 Heard learned counsel for the applicant and learned counsel for the respondent, who has opposed the application and has placed on record an affidavit along with the profile of the applicant.

3 The marriage between the parties was solemnized on 1st December 2019 and the averment is to the effect that from

Tilak

26th August 2020, the applicant started residing in her parental house. On 1st February 2021, she lodged a complaint u/s.498A of the IPC against the respondent and the husband instituted the Petition which was numbered as Petition No.A-245/2021 for dissolution of the marriage. It is this petition which is sought to be transferred by the applicant to the place of her residence i.e. Taluka Mangaon.

The ground which is set out in the application for seeking transfer is contained in paragraph nos.7 and 8 which read thus :-

“7 The petitioner states that the next day i.e. no 28th March 2019, the Petitioner once again called the respondent so as to pacify her. The Petitioner expressed his feelings to the respondent by conveying how important she is to him and that he would do everything in his capacity to make her happy however he also has to fulfill his responsibilities and duties towards his job. The Petitioner expressed his desire to meet her on Saturday i.e. 30th March 2019 however the Respondent was angry with the Petitioner and continued to argue with him.

8. The Petitioner states that he continued to pursue the Respondent throughout the day by calling her and eventually managed to pacify her. However the Respondent warned the Petitioner that he should call her once a day and check with her before making any plans. The Petitioner was surprised to hear this as he had been calling her everyday and also meeting her during weekends. This was the first time that he was unable to

visit her due to his working schedule and he had thought that the Respondent ought to know that due to his work profile there might be other occasions when he might not be able to meet her as planned”.

4 The respondent has filed a detailed affidavit and following statement is made in the affidavit :-

“(j) From January 2020, the applicant joined Zomato at Andheri (East) as Key Account Manager (online ordering) in the Sales Team and continue to work there till date and draws a monthly salary of more than Rs.75,000/-”

About the fear being expressed by the applicant to travel alone, a following statement is made in para (k) of the affidavit.

“(k) *The applicant has undertaken solo pleasure trips to;*

- (i) Thailand in February/March 2017*
- (ii) Sri Lanka in August 2018*
- (iii) Europe (France, Belgium, Netherlands) in August 2019, for Bachelorette party where she was joined by one friend from Australia and another friend from Switzerland.*
- (iv) Goa in January/February 2021.*

5 The affidavit disclose that the applicant is highly educated who has obtained a B.E. degree and is working in Mumbai on and off. She has also obtained a degree in Management and had taken various tours on account of her job

responsibilities, is the submission. A rejoinder came to be filed by the applicant and though technically, a statement is admitted, the learned counsel for the applicant make a submission that as on today, she is asked to work from home and therefore, she is residing at Mangaon. As far as the travel/trips undertaken, the submission is that she never travelled alone.

6 Considering the affidavit which is brought on record by the respondent with the educational credentials and the profiles which have been placed on record in form of photographs of the applicant, it cannot be perceived that the applicant is a woman who cannot travel alone, and on her own. She is young, educated and the difficulty expressed by her in taking up the travel of 130 kms for attending the proceedings in the Court at Mumbai cannot be accepted. Though the learned counsel for the applicant has admitted that she is working from home, it necessarily lead to a conclusion that she is employed in the office at Zomato at Mumbai sooner or later, after the Pandemic is over, which is now ebbing, she will have to undertake the job responsibilities where she is engaged.

7 In the aforesaid circumstances, the respondent who has instituted the proceedings in the Court at Bandra and by applying the principle of *dominus litus*, since it is open for him to chose the forum where he will institute the proceedings, merely

because the wife plead that there is an inconvenience to her, cannot be a ground for transfer of proceedings.

It is settled position of law that the power under Section 24 of the Code of Civil Procedure is to be exercised with extreme caution and it shall not be exercised at the drop of the hat just for the sake of its exercise, unless and until the case is made out. The distance of 130 kms which is projected to be a difficulty in travel, is probably undertaken by many persons who come in and out of Mumbai for attending their job responsibilities and it cannot be projected as inconvenience.

8 In the aforesaid circumstances, I am not inclined to grant the application, since the power conferred under Section 24 of the Code, do not permit its exercise in the given circumstances. The judgment relied upon by the counsel for the applicant in case of Gajanan Madhavrao Narwade Vs. Kalandi Gajanan Narwade & Ors, (MCA No.44/2018) is of no support to him since it is a decision based on the peculiar facts therein.

9 The Application is rejected.

SMT. BHARATI DANGRE, J