

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISCELLANEOUS CIVIL APPLICATION NO.205 OF 2021

Ankita Kunaal Shinde	.. Applicant
Versus	
Kunaal Kiran Shinde	.. Respondent

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Mr. Mohit Bharadwaj for the applicant.
Mr. Rohit Shaligram for the respondent.

CORAM: BHARATI DANGRE, J.
DATED : 24th NOVEMBER, 2021

P.C:-

1 Heard learned counsel for the applicant and respondent.

2 The applicant wife has moved this application under Section 24 of the Code of Civil Procedure, seeking transfer of the Marriage Petition No. 598 of 2020 filed by the respondent – husband in the Court of Civil Judge, Sr. Division, Pune in the month of July 2020 to the Family Court, Mumbai.

3 The marriage between the parties was solemnized on 8th January 2017 and pertinent to note that both of them are

Tilak

medical practitioners, the applicant residing in Mumbai, the respondent residing in Pune and the applicant last resided with her husband in Pune. Since the relationship between the parties did not blossom as immediately within a period of two years, she left matrimonial home and it is alleged that it is on account of abuse, she was compelled to leave the company of her husband. The husband instituted Divorce Petition in July 2020 whereas the applicant instituted Petition under the Domestic Violence Act, 2005 in the Court of Chief Metropolitan Magistrate at Andheri which was numbered as D.V. Case No.199/ 2020.

4 The applicant is seeking transfer of the proceedings filed by respondent at Pune to the Family Court at Mumbai, on the grounds set out in the application.

On perusal of the said ground and in particular para 18 and 19, the foremost ground appear to be the inconvenience which would be caused to her in taking the journey to Mumbai to attend the proceedings. Though it is vaguely stated that she is suffering from chronic illness and she would face genuine difficulty in travel, the said averment is not accompanied by any documentary proof in form of any certificate of a medical practitioner nor there is any indication about the nature of illness on record. The ground which is pleaded is to the effect that it would be unsafe for her to travel alone in the background of her health condition and will need some escort to the family.

In absence of any proof being adduced to the aforesaid fact, the said reason for transfer cannot be accepted.

5 In para 18, one more ground is set out, being a genuine threat to her life, from the respondent who has a political clout. Barring the bald statement, there is no material placed on record to show that the applicant faced any threat at the instance of the respondent at any point of time. Though while giving the narration about the deteriorating relationship, certain instances of ill-treatment are given. The apprehension is expressed that she will suffer a threat to her life when she travel to Pune to Mumbai.

6 Respondent husband has instituted a Divorce Petition in the Court at Pune and applying the principle of *dominus litus*, he is entitled to file proceedings at the place whether it is legally permissible for him to institute the same. It is the wife who is seeking transfer of the proceedings from Pune to Mumbai and she should make a case for transfer as contemplated under Section 24 of the Code of Civil Procedure.

It is to be kept in mind that the power under Section 24 is the one which is expected to be exercised with great caution and transfer cannot be merely granted for the sake of asking. Merely because the wife find it inconvenient to travel, can be no ground to grant the transfer application. However, in the

application it is expressed that the respondent husband has failed to pay any maintenance, though she has filed application for maintenance, I deem it fit to grant an order to the effect that on every travel being undertaken by the applicant for attending the proceedings in Pune, half of the expenses incurred by her in undertaking the travel shall be borne by the respondent husband upon submission of actual payment of bill before the learned Court, where she would attend the proceedings.

This indulgence I have granted since her specific claim is that she face monetary difficulties.

7 With the aforesaid direction being issued, Misc. Civil Application is rejected.

SMT. BHARATI DANGRE, J