

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

962 MISC.CIVIL APPLICATION NO.53 OF 2022

**ANJALI MAYURESH VIBHUTE
VERSUS
MAYURESH JAVAHAR VIBHUTE**

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Mr. P.R. Nangre, Advocate for the applicant.
Mr. Amol S. Gandhi, Advocate for the respondent.

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CORAM : SANDIPKUMAR C. MORE, J.

DATED : 07.10.2022.

ORDER:-

1. Heard the rival submissions. The applicant - wife is seeking transfer of Hindu Marriage Petition No. 217/2021 filed by her husband / respondent for getting divorce in the Court of Civil Judge (Senior Division), Solapur, to the Family Court at Ahmednagar.

2. The learned Counsel for the applicant submits that the applicant – wife is not having any independent source of income. Moreover, she has also filed two proceedings at Ahmednagar; one is criminal proceeding under Section 498-A of the Indian Penal Code pending in the Court of concerned Magistrate and the another is under the provisions of Domestic Violence Act before the Chief Judicial Magistrate, Ahmednagar. Not only this, but the brother of respondent - husband has

also filed criminal prosecution bearing RCC No. 281/2021 against the applicant and her family members.

3. On the contrary, the learned Counsel for the respondent husband strongly opposed the application on the ground that the applicant – wife can claim cost of litigation and travelling charges as per the provisions of Hindu Marriage Act, if she has to appear in the aforesaid Hindu Marriage Petition at Solapur. He also relied on order dated 3rd January 2022 passed by this Court in MCA No. 176 of 2021.

4. However, it is significant to note that the respondent – husband has already appeared in the aforesaid two proceedings initiated by the applicant – wife at Ahmednagar and he is attending the dates there. The applicant – wife is not having any independent source of income and she is also having two years old daughter from respondent - husband. Considering all these aspects, it would be more convenient for the applicant – wife than the respondent - husband if the Marriage Petition at Solapur is transferred to Ahmednagar. No doubt, that the applicant can claim cost of litigation and conveyance charges under the provisions of law. But in this matter, when the husband is already attending the dates at Ahmednagar, then the order dated 3rd January 2022 relied upon by the respondent –

husband is not helpful to him. Hence, following order is passed.

ORDER

- (i) Application is hereby allowed
- (ii) HMP No. 217/2021 pending in the Court of Civil Judge (Senior Division), Solapur is hereby transferred to the Family Court, Ahmednagar for it's disposal according to law.
- (iii) The respondent - husband is directed to appear before the Family Court, Ahmednagar on 9th November 2022.
- (iv) The application is accordingly disposed of.

(SANDIPKUMAR C. MORE, J.)