

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

**MISC.CIVIL APPLICATION NO.211 OF 2022
WITH
CIVIL APPLICATION NO. 14897 OF 22**

**SWATI VICKY SHINDE
VERSUS
VICKY RAMESH SHINDE**

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Mr. Sachin S. Deshmukh, Advocate for the applicant.

Mr. Naveen Sharma, Advocate for the respondent.

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CORAM : SANDIPKUMAR C. MORE, J.

DATED : 14.12.2022.

ORDER:-

1. Heard rival submissions. The applicant – wife is seeking transfer of Petition A.No. 549/2022 and Petition D.No.58/2022 filed by the respondent – husband for getting divorce and for getting custody of the child respectively, from the Family Court, Pune to the Family Court, Jalna.

2. Learned Counsel for the applicant submits that the applicant has also filed proceeding under Section 125 of Cr.P.C. in the Family Court at Jalna wherein the respondent husband has caused his appearance. Moreover, 3 ½ years son namely Ronit is residing with her. He further submits that the applicant is having no source of income and considering the distance between Jalna to Pune being 300 kms., it is highly

difficult for her to attend the dates at Family Court, Pune. Besides the submission, the learned Counsel for the applicant also relied on the judgment of this Court in the case of ***Sheetal Pankaj Patil (Shirke) vs Pankaj Himmatrao Patil (Shirke)*** reported in ***2021 (3) AIR Bom.R 575***.

3. On the contrary, learned Counsel for the respondent – husband strongly opposed the application by filing affidavit-in-reply of the respondent, contending that the applicant's brother is working and living at Pune with his family and therefore, the applicant can very well attend the dates at Pune. He pointed out that the respondent is in business and therefore it is not possible for him to attend the dates frequently at Jalna. According to him, the respondent without any order of the Court has voluntarily paid an amount of Rs. 1,25,000/- to the applicant within short span of 4 to 5 months only. Moreover the respondent has contended that son Ronit was with him at Pune initially, but the applicant, without his permission, took Ronit with her from school. He also relied on the following judgments :

(i) Rakhi Mishra vs Sanjay Mishra, 2007 (2) MPLJ 269;

(ii) Harshada Tejas Narute vs Tejas Mukund Narute (MCA No. 168 of 2021)

4. Admittedly, the applicant – wife has filed proceeding under Section 125 of Cr.P.C. against the respondent – husband in the Family Court at Jalna and respondent has also appeared there. It is to be noted that the distance between Jalna and Pune is of 300 kms and it would be highly difficult for the wife to travel to Pune for attending the dates of Family Court, Pune. Moreover, though the respondent has made payment around of Rs. 1,25,000/- to the applicant, but it is his duty to pay certain amount to his son as well as wife.

5. Admittedly, in the judgments relied upon by the respondent it is observed that on payment of certain travelling expenses, the applicant wife can be directed to attend the dates of the proceedings which she wants to transfer. However, the Supreme Court, in recent judgments, has also observed that in transfer cases the paramount consideration is the convenience of wife. Moreover, this Court has also held in recent judgments that if the multiple proceedings are pending between husband and wife on the similar set of facts, then it would be advisable that those proceedings shall be dealt with by one and the same Court. It is extremely important to note that the respondent – husband anyhow will have to attend the dates at Family Court, Jalna in the proceeding under Section

125 of Cr.P.C. and therefore, the petitions filed by him at Family Court, Pune can also be transferred to the Family Court at Jalna for proper adjudication of the real controversy between the parties. Therefore, the following order is passed.

ORDER

- (i) The application is hereby allowed.
- (ii) Petition A No. 549/2022 and Petition D No.58/2022 are hereby transferred from the Family Court, Pune to the Family Court, Jalna for its disposal according to law alongwith the petition filed by the applicant therein under Section 125 of the Code of Criminal Procedure.
- (iii) The respondent is directed to appear before the learned Family Court, Jalna on or before 25th January 2023. The respondent will be at liberty to seek for convenient dates from the Family Court, Jalna for all these proceedings.
- (iv) The learned Family Court, Jalna is directed to dispose of all these petitions as early as possible.
- (v) The application as well as pending Civil Application No.14897 of 2022 are accordingly disposed of.

(SANDIPKUMAR C. MORE, J.)