

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

960 MISC.CIVIL APPLICATION NO.284 OF 2022

**RUTUJA SAGAR JAWALE
VERSUS
SAGAR BHAUSAHEB JAWALE**

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Advocate for Applicant : Mr.Nimbalkar Aniruddha A.
Advocate for Respondent : Mr.Ashwini A. Dhande and Mr.Gutam J.
Karne

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CORAM : SANDIPKUMAR C. MORE, J.

DATE : 02.12.2022.

PER COURT :

1. Heard rival submissions.
2. The applicant is seeking transfer of Marriage Petition No. 221 of 2022 filed by the respondent/husband for restitution of conjugal rights, from the Court of C.J.S.D., Kalyan to the Court of C.J.S.D., Pathardi, District Ahmednagar.
3. The learned Counsel for the applicant submits that the distance between Pathardi and Kalyan is of 300 k.m. and the applicant is not having any source of income. He pointed out that the applicant has also lodged an FIR against the respondent in Pathardi Police Station under Section 498-A of the IPC. He submits that if the applicant is asked to attend the dates at Kalyan, then there

will be danger to her life.

4. On the contrary, the learned counsel for the respondent by relying upon the reply of respondent, strongly resisted the application on the ground that the proceeding at Kalyan is at fag end since it is at the stage of Ex-parte hearing. Further, the applicant is in the field of modeling and she regularly comes to Mumbai, where her relatives also resides. She relied on two judgments of Hon'ble Apex Court. First in the case of **Preeti Sharma Vs. Manjit Sharma 2005 (11) SCC 535** and second in the case **Usha George Vs. Koshy George 2000(10) SCC 95**. In first judgment the transfer has been refused by directing the husband for reimbursement of traveling charges and in the other judgment the transfer was refused since number of hearing in the proceedings under transfer had already taken place. However, this is not the case in the instant matter because the applicant is not having any source of income and the latest view of the Hon'ble Apex Court is to see convenience of wife primarily.

5. It is significant to note that, the respondent/husband will have to attend the Police Station Pathardi and subsequently to the Court at Pathardi in connection with the FIR. It was intimated during the course of argument that the respondent had also attended

Bharosa Cell at Superintendent of Police Office, Ahmednagar where attempts of mediation between applicant and respondent were made. In view of the same, and by considering the convenience of the wife in the instant case following order is passed :

ORDER

- i) The application is allowed.
- ii) The Marriage Petition No. 221 of 2022 is hereby transferred from the Court of C.J.S.D., Kalyan, District Thane to the Court of C.J.S.D., Pathardi, District Ahmednagar for disposal according to law.
- iii) The respondent is directed to appear before the Court of C.J.S.D., Pathardi, Dist. Ahmednagar on or before 02.01.2023.
- iv) The learned C.J.S.D., Pathardi, Ahmednagar is directed to dispose of the aforesaid petition as early as possible and the applicant is also directed not to take adjournments unnecessarily.

**(SANDIPKUMAR C. MORE)
JUDGE**

mahajansb/