

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

958 MISC.CIVIL APPLICATION NO.320 OF 2021

**SWARANGI ALIAS MEENA VISHNU WAGADKAR
VERSUS
VISHNU RAMJI WAGADKAR**

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Advocate for Applicant : Mr. S. A. Deshmukh h/f Mr. Deshmukh Arvind
S.

Advocate for Respondent : Mr. Shrikant G. Kawade.

CORAM : MANGESH S. PATIL, J.

DATE : 09.06.2022.

PER COURT :

This is an application by the wife for transfer of a petition for divorce filed by the respondent-husband and pending in the Court at Osmanabad to Parbhani by invoking provision of Section 24 of the Code of Civil Procedure.

2. I have heard the learned advocates of both the sides. There is no dispute about the fact that since after the couple got separated the applicant has been residing at Parbhani. There is no dispute about the fact that she has filed couple of proceedings, one under the Protection of Women from Domestic Violence Act and one under Section 125 of the Code of Criminal Procedure against him in the courts at Parbhani. There is also no dispute about the fact that she has also lodged an F.I.R. for the offences punishable under Section 498A etc. of the Indian Penal Code with a Police Station in Parbhani. Though the respondent seems to have approached this court seeking quashment of the F.I.R. the fact remains that the F.I.R as of now has not been quashed.

3. In view of such admitted state of affairs, the respondent-husband must be required to go to Parbhani to defend various proceedings

initiated by the applicant, irrespective of the fact that the divorce proceeding continues in the court at Osmanabad. As against this, in spite of being a woman the applicant will have to commute between Parbhani and Osmanabad which are around 260 k.m. apart to defend the divorce proceeding. Applying the analogy of comparative hardship, therefore, the applicant would face to greater hardship than that would be faced by the respondent more so when she has no established source of income and he earns salary.

4. Certainly, whatever hardship the respondent is likely to face by transfer of the proceeding can be mitigated by taking care to direct the Courts at Parbhani to take up all the matters between the parties on the same date as far as possible.

5. The application is therefore allowed. The divorce proceeding (Hindu Marriage Petition No. 129/2020) pending before the learned Civil Judge Senior Division Osmanabad is transferred to the Family Court at Parbhani.

6. The parties shall appear before the Family Court at Parbhani on 09.07.2022 and there shall be no need for that court to issue any notice.

7. All the Courts wherever different matters are pending between the parties at Parbhani including the one being transferred shall see to it that as far as possible all these matters are listed on the same date.

(MANGESH S. PATIL, J.)

mkd/-