

IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD

MISC CIVIL APPLICATION NO. 35 OF 2022

Sangita Gaurav Patil  
@ Sangita Madan Umate

Applicant

Versus

Gaurav Maruti Patil

Respondent

Mr. S. V. Gundre, Advocate for the applicant.

Mr. C. P. Yadav, Advocate for the respondent.

**CORAM : M.G. Sewlikar, J.**

**DATE : 13<sup>th</sup> September, 2022.**

**PER COURT :**

1. This is an application for transfer of HMP No. 173/2021 pending in the Court of Civil Judge, Senior Division, Karad to the Court of Civil Judge, Senior Division, Latur.

2. Facts giving rise to this application are that applicant is the legally wedded wife of the respondent. Their marriage was solemnised on 8<sup>th</sup> May, 2019, at Latur. Since the parties did not get along well, the applicant started residing separately since March, 2021 with her father and brother. Applicant has sought transfer of

HMP No. 173/2021 to Latur contending that it is difficult for her to attend the proceedings at Karad from Latur which is about 350 kms by road. Applicant has filed application under Section 125 of the Code of Criminal Procedure at Latur. Applicant is required to travel from Latur to Karad which involves expenditure of Rs. 2,000/- per trip. She does not have any relative at Karad with whom she can stay for a day or two. She has no source of income. Her mother is no more alive. She being a lady, it is very difficult for her to travel from Latur to Karad. There is a danger to her life and on several occasions, respondent and his relatives threatened her to give consent for divorce. Respondent is residing at Pune but has filed the proceedings at Karad just to harass the applicant. She, therefore, prays for transfer of proceedings from Karad to Latur.

3. Respondent has filed affidavit-in-reply. He denied all the allegations of applicant. He contended that there are several tourist travel buses from Latur to Karad and from Karad to Latur. There are direct buses of MSRTC from Latur to Karad in the night and even in the morning. Applicant is an educated lady. She is a Pharmacist registered with Maharashtra State Pharmacy Council on 12<sup>th</sup> September, 2014. She has completed graduation from Commerce

faculty. She has done MSCIT in January 2015. She was required to travel all over Maharashtra because of her pharmacy work. Therefore, she has experience of travelling. The allegations of threat are not supported by any evidence. Respondent or his relatives never gave any threat to the applicant for divorce. He contended that he lost his job because of the suspicious nature of the applicant. Therefore, it would not be possible for him also to go to Latur on every date. He further contended that the proceedings pending at Karad is part-heard. Evidence of the respondent is over and it is posted for evidence of the applicant.

4. I have heard Shri Gundre, learned counsel for the applicant and Shri Borulkar, learned counsel for the respondent.

5. Learned counsel for the applicant submitted that it is difficult for the applicant to travel all along from Latur to Karad. She has no source of income. Her father is 70 years old and she has to take care of her father. It is very difficult for her to attend the proceedings at Karad from Latur. Her brother cannot accompany her as her father would be left alone. He submits that one more proceeding under Section 125 of the Code of Criminal Procedure is

pending at Latur.

6. Learned counsel for the respondent submitted that respondent has lost his job and he is not employed anywhere. He further submitted that the applicant is a Pharmacist and because of her job, she was required to travel all over Maharashtra. Therefore, she has experience of travelling alone. He further submitted that the respondent lost his job because of the suspicious nature of the applicant. He further submitted that his evidence in the HMP is over and it is posted for the evidence of the applicant. He submitted that he will complete cross-examination of the applicant on Monday and will not seek adjournment.

7. Respondent has annexed copy of the order of termination dated 9<sup>th</sup> September, 2021. This letter states that because of the suspicious nature of the applicant, the respondent has lost his job. Respondent has annexed the certificate showing that applicant is a Pharmacist. She is an educated lady. Naturally, she must be having experience of travelling alone. Learned counsel for the respondent disputed that the applicant has filed application under Section 125 of the Code of Criminal Procedure. He submitted that he has not

received any such notice. Be that as it may. Applicant has no issue from the respondent. Therefore, there is no constraint for her to travel to Karad from Latur. Admittedly, evidence of the respondent is over in the petition pending at Karad. On 4<sup>th</sup> October, 2022, evidence of the applicant can be concluded. She can swear affidavit from Latur and file it in the Court at Karad. Therefore, I do not deem it appropriate to allow the application. Moreover, the Court before whom the proceedings are pending can explore the possibility of recording evidence of the applicant by virtual mode. In view of this, following order is passed :-

### **ORDER**

- i) Application is dismissed.
- ii) Applicant shall file affidavit on 28<sup>th</sup> September, 2022. Thereafter the Court shall fix the date for recording of evidence on 4<sup>th</sup> October, 2022. On that day, respondent shall conclude cross-examination and shall not seek adjournment. If he seeks adjournment, the concerned Court is at liberty to pass 'No Cross Examination' order.
- iii) Respondent shall bear travelling and

accommodation expenses of the applicant and shall also pay Rs. 5,000/- in addition to that to the applicant for her diet expenses.

**( M. G. SEWLIKAR )**  
**Judge**

dyb