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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISC. CIVIL APPLICATION NO. 74 OF 2022**

Sou. Ashwini Kuldip Pawar Applicant.
V/s
Shri Kuldip Ramdas Pawar Respondent.

Mr. Anand S. Patil for the Applicant.
Mr. Mayur Salunke for the Respondent.

CORAM: NITIN W. SAMBRE, J.

DATE: APRIL 08, 2022

P.C.:-

1] By this Application under Section 24 of the Civil Procedure Code, Applicant-wife has sought transfer of Hindu Marriage Petition initiated under Section 13(1) of the Hindu Marriage Act being Marriage Petition No.503 of 2019 from the file of Civil Judge, Senior Division, Pune to the file of Family Court, Kolhapur.

2] The ground of hardship is ascertained, as it is claimed that Applicant being doctor is employed in a private hospital. As such, it is difficult for her to proceed on leave to attend proceedings at Pune at her own cost. It is further brought to my notice that appeal arising out of D.V. Act proceedings is pending at Kolhapur which is duly attended by the non-applicant. Apart from above, proceedings under the Guardian and Wards Act initiated by the Applicant are also pending at Kolhapur.

3] While opposing the prayer for transfer, Counsel for the non-applicant would urge that the Applicant is living adulterous life and as such proceedings for divorce are initiated. According to him, said fact can be inferred in the light of sufficient evidence available on record to that effect. Apart from above, he would urge that already at the behest of the Applicant prosecution under Section 498A is pending at Pune. As such, it is claimed that Application for grant of transfer be rejected as same is initiated purely with an intention to cause inconvenience to the non-applicant/husband who is admittedly custodian of a child.

4] I have appreciated the said submissions.

5] At the outset, this Court has given option to the non-applicant/husband to provide travel and out of pocket expenses to the tune of Rs 10,000/- on each day when the Applicant physically attends the proceedings at Pune. Counsel for non-applicant on instructions informed that non-applicant can bear the expenses to the extent of Rs 1,000/- on each day and the Applicant can travel by bus. Aforesaid offer is unreasonable and not befitting status of parties and their standard of living. If we consider the prayer of transfer moved by the Applicant, what can be noticed is, even if proceedings for divorce are prior in point of time, this Court cannot be oblivious to the fact that at the behest of Applicant/wife D.V. Act proceedings are pending at Kolhapur Court which are already attended by the non-

applicant.

6] Leave apart pendency of another complaint/case, fact remains that at the relevant time, Applicant and non-applicant were jointly residing at Pune and perhaps that was the basis for filing complaint at Pune for the offence punishable under Section 498A of the IPC.

7] In my opinion, considering the hardship which Applicant will suffer, case for transfer is made out. Application, as such stands allowed in terms of prayer clause (a). Accordingly, the Hindu Marriage Petition No.503/2019 pending on the file of Civil Judge, Senior Division at Pune is directed to be transferred to the file of Family Court at Kolhapur.

(NITIN W. SAMBRE, J.)