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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISC CIVIL APPLICATION NO. 43 OF 2020**

SOU KANCHAN ATULAMAN MISHRA
@ KANCHAN AMIRITNARAYAN MISHRA ...Applicant.

V/s

SHRI ATULAMAN SHUBHSUDAN MISHRA ... Respondent.

Ms. Pooja Phagnekar i/b Nitesh J. Mohite for the Applicant.

CORAM: NITIN W. SAMBRE, J.

DATE: APRIL 18, 2022

P.C.:-

- 1] Though served, none appears for the non-applicant.
- 2] As such, contentions raised in the Application under Section 24 of the Civil Procedure Code are not controverted.
- 3] Parties got married on 17/04/2014 and are blessed with a daughter aged about seven years. It appears that present Applicant has initiated criminal proceedings against the non-applicant for the offence punishable under Sections 498-A, 406, 323, 504, 506 read with Section 34 of the Indian Penal Code. In addition, D.V. Act proceedings are pending on the file of Court of Judicial Magistrate, First Class at Ulhasnagar.
- 4] In the aforesaid backdrop, on the ground of hardship, Applicant-

wife has sought transfer of proceedings being Marriage Petition No. 318 of 2018 initiated under Section 13(1) of the Hindu Marriage Act for divorce, as she is a custodian of minor daughter. In addition, transfer is also sought on the ground that there is a possibility of recording of overlapping findings on the same set of facts and evidence and for avoiding the same transfer is necessary.

5] Since the contentions in the Application are not controverted, case for transfer based on the above grounds is made out by the Applicant.

6] In that view of the matter, Application is allowed in terms of prayer clause (b) which reads as under:-

“(b) This Hon’ble Court may be pleased to transfer Marriage Petition No.318 of 2018 pending before the Hon’ble Civil Judge Senior Division at Vasai to the Learned Civil Judge Senior Division, Kalyan;”

7] Application is disposed of.

(NITIN W. SAMBRE, J.)