

VAISHALI
ANIL
TIKAM

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISC. CIVIL APPLICATION NO.48 OF 2022

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Bharti Mangesh Ubale

....Applicant

V/s.

Mangesh Chandrakant Ubale

...Respondent

Mr. Sharad T. Bhosale , Advocate for the applicant.

Mr. Makrand Kale i/b. Samadhan A. Kashid, ,
Advocate for the respondent.

CORAM : SANDEEP K. SHINDE, J.

TUESDAY, 4TH OCTOBER, 2022.

P.C. :

1. Applicant married to Respondent in October, 2020. Both are graduates. Applicant is residing at Dist. Usmanabad, with her parents; whereas non-applicant is residing at Panvel, Dist. Raigad. Applicant claims that respondent has withdrawn himself, from her company since June, 2021 without reasonable cause. Whereafter, in September, 2021, respondent filed petition in the Court of Civil Judge, Senior Division, Panvel, Dist. Raigad for dissolution of marriage. Apparently, the summons in the said petition was served on the applicant in or around, October-November, 2021. Thereafter, the applicant lodged first information report (FIR) against the non-

applicant, his parents, married sister, her husband and others under Sections 498A, 323, 504 and 34 of IPC at Usmanabad. Thereafter, applicant filed a complaint under the Domestic Violence Act, against her husband, mother-in-law, father-in-law, married sister-in-law and her husband in the Family Court at Usmanabad. Thus, it could be seen, these two proceedings were filed after the summons in the petition was received by her. I have perused the complaint under the Domestic Violence Act and FIR. The Applicant, however, could not reasonably explained as to why she did not lodge the complaint against husband and in-laws soon after she was allegedly deserted in June, 2021. Thus, it could be reasonably inferred these complaints were filed, to counter, divorce petition filed by the respondent. This clearly reflects on conduct of the applicant. The transfer jurisdiction Section 24 of the CPC which is discretionary and while exercising not only convenience of the party, but conduct needs to be noted. Although it is argued by Applicant's counsel that distance between Usmanabad and Panvel is about 450 kilometers, and would be not convenient to travel such a long distance, however, in view of the facts stated above and mindful of applicant's conduct, in my view, she is not entitled to seek transfer of Marriage Petition from Panvel, Dist. Raigad to Usmanabad.

2. On the other hand, counsel for the Applicant, on instructions submitted that he is willing to pay to and fro fare

to the Applicant and her companion as and when she may have to attend the proceedings at Panvel.

3. In consideration of these facts, the non-applicant shall pay Rs.40,000/- to the Applicant towards traveling and lodging expenses, either by transferring the money in her account or by cheque or cash on her each visit to Panvel. The Learned Civil Judge, Senior Division, Panvel, Raigad shall ensure that applicant pays her, said amount.

4. In view of the above, the application deserves no consideration. Application is disposed of as rejected.

(SANDEEP K. SHINDE, J.)