

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

MISC. CIVIL APPLICATION NO.280 OF 2022

Rupali Sachin Kadam Nee

Rupali B. Dhumal

..... Applicant

Vs.

Mr. Sachin Shankarrao Kadam

....Respondent

Mr. Harihar Bhave with Ms. Rupa Bhave with Ms. Divya Menon for
the Applicant.

Mr. Sachin Mhatre with Rochelle Fernandes i/by Mhatre Law
Association for the Respondent.

**CORAM: SANDEEP K. SHINDE, J.
RESERVED ON : OCTOBER 03, 2022
PRONOUNCED ON: OCTOBER 10, 2022**

P.C.

1. Wife seeks transfer of the petition No.A-2208 of 2021,
from the Family Court, Bandra to the Family Court at Pune on the
sole ground that she being diagnosed of osteoarthritis, is unable
to travel from Pune to Family Court at Mumbai.

2. Heard Mr. Bhave learned counsel for the applicant and
Mr. Mhatre learned counsel for the Respondent.

3. Applicant is 43 years old, post-graduate lady. She
married to respondent in December, 2010 at Pune. No issue is
born out of the wed-lock. Her husband is doctorate from Johns
Hopkins University. In December, 2012, husband took a job at

Defence Research and Development Organisation at Pune. For a few months, couple was residing at Pune. Divorce petition filed by the Respondent conveys that in or around June, 2014, the applicant without reasonable cause withdrawn herself from his company and since then he is living in Mumbai and applicant at Pune, for uninterrupted period of seven years. On this ground, besides others, respondent filed Petition in the Family Court at Mumbai seeking decree of divorce.

4. Apparently, after receiving summons in divorce petition on 13th February, 2021, applicant filed a complaint at Vishrantwadi Police Station against husband and in-laws under Section 498A, 420 and 406 of the Indian Penal Code, 1860. Pursuant thereto, her statement was recorded by PSI on 30th June, 2021. Be it noted that applicant's brother is police officer at Pune.

5. In any case, since after 2010 until January, 2021 at no point of time, applicant had expressed or conveyed to anyone that she was ill-treated by in-laws or husband for not meeting their unlawful demands. This itself speaks volume and reflects on her conduct. Be that as it may, in so far as her inability to travel

from Pune to Family Court at Mumbai is concerned, except Dr. Arora's certificate that she is undergoing treatment for osteoarthritis, there is no material on record to reasonably infer and hold, that because of said illness, she is unable to travel to Family Court at Mumbai. Therefore, it is not sufficient and cogent ground to exercise jurisdiction under Section 24 of Code of Civil Procedure, 1908. Jurisdiction under Section 24 of the CPC cannot be exercised unless and until sufficient and cogent grounds are disclosed.

6. Though in the case of **N.C.V. Aishwarya v. A.S.Saravana Karthik Sha in 2022 LiveLaw (SC) 627**, the Hon'ble Supreme Court has held that *"In matrimonial matters wherever courts are called upon to consider the plea of transfer, Courts have to take into consideration prevailing socio-economic paradigm in the Indian society and generally, it is wife's convenience which must be looked while considering transfer."* However, in the case at hand, applicant is post-graduate. She has not disclosed cogent, convincing reasons for transfer of the petition from Family Court, Mumbai to Family Court, Pune except stating that her health does not permit travelling. In any case, judicial notice can be taken of the fact that the distance between

Pune and Mumbai is hardly 150 kilometres and these cities are well connected by road and railway. As such, no case is made out by the applicant for allowing transfer of the marriage petition from Family Court Mumbai to Family Court at Pune. However, in consideration of the facts of the case, respondent shall pay amount equivalent to first class fare for Pune-Mumbai to and from of the train to the applicant and her companion plus Rs.1,000/-, in advance on her each visit. As such, applicant shall forward her bank details to the respondent to enable him to transfer money in her account before the date scheduled for hearing in the Family Court, Mumbai. However, it is clarified that applicant can always apply for exemption if she is unable to attend the family Court at Pune and the Court shall consider it sympathetically. Thus, no ground for transfer is made out. Application is dismissed.

(SANDEEP K. SHINDE J.)