

R.M. AMBERKAR
(Private Secretary)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO. 316 OF 2022

Manisha Mansingh Kurhade nee
Manisha Mathurdas Tupsaundare .. Applicant
Versus
Mansingh Bharat Kurhade .. Respondent

-
- Mr. Chandrakirti S. Zende for Applicant
 - Mr. Sandeep Pingale for Respondent
-

CORAM : MILIND N. JADHAV, J.

DATE : NOVEMBER 28, 2022

P.C.:

- 1.** Heard.
- 2.** I have heard Mr. Zende, learned Advocate appearing for Applicant and Mr. Pingale, learned Advocate for Respondent. Though affidavit-in-reply has not been filed by Respondent-husband, submissions and objections made on his behalf are noted.
- 3.** Parties got married on 09.06.2019. After marriage, Respondent-husband started physically and mentally harassing the Applicant. Applicant lodged a complaint against the Respondent for causing her mental and physical cruelty being FIR No. 0240/21 in Bhosari Police Station, Pune. Thereafter Applicant filed Cri. Misc. Application No. 519 of 2021 against the Respondent before Civil Judge Junior Division and Judicial Magistrate First Class, Pimpri, Dist. Pune under Domestic Violence Act. Thereafter Respondent filed

Marriage Petition No. A-71/2022 for restitution of conjugal rights pending on the file of Family Court, Kolhapur of which transfer is sought by Applicant to Family Court, Pune where she resides.

4. Perused the grounds of hardship which are pressed in paragraph Nos. 3.1 to 3.6 of the Application. As Applicant – wife will be required to travel from Bhosari, Pune to Family Court, Kolhapur to attend the proceedings, it will cause prejudice and hardship to her.

5. It is well settled by a catena of judgments of the Supreme Court as well as this Court that the primary concern in such matters is the convenience of the wife.

6. The cardinal principle for exercise of power under Section 24 of CPC is that the ends of justice demand the transfer of the suit, appeal or other proceeding. In matrimonial matters, wherever the Courts are called upon to consider the plea of transfer, the Courts have to take into consideration the economic soundness of either of the parties, the social strata of the spouses and behavioural pattern, their standard of life antecedent to marriage and subsequent thereto and circumstances of either of the parties in eking out their livelihood and under whose protective umbrella they are seeking their sustenance to life. Generally, it is the wife's convenience which must be looked at by the Courts, while deciding a transfer application and merits of the case need to be considered.

7. In the present case if the Applicant - wife is forced to go

from Bhosari, Pune to Family Court, Kolhapur, it would amount to denial of justice to her. It is settled principal of law that justice is not only to be done but it should also appear to have been done. Hence, to strike a balance between the parties with a view to do complete and substantial justice and proceeding on a holistic view of the matter, I am of the considered view that it would be just and expedient to transfer the proceeding filed by Respondent-Husband from Family Court, Kolhapur to Family Court, Pune.

8. In my opinion, ground of hardship has to be considered in favour of the Applicant, as one way distance between Bhosari, Pune and Family Court, Kolhapur is 255 kilometers.

9. As such, Application is allowed and disposed of in terms of prayer clause (b) which reads as under:-

“(b) Petition No. A-71 of 2022 pending on the file of the learned Judge, Family Court, Kolhapur may kindly be transferred to the Family Court, Pune.”

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[MILIND N. JADHAV, J.]