

*R.M. AMBERKAR*  
(Private Secretary)

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

**MISC. CIVIL APPLICATION NO. 388 OF 2022**

Gauri Manish Deshpande

.. Applicant

**Versus**

Manish Tukaram Deshpande

.. Respondent

- .....
- Ms. Sonali Chavan i/by Dr. Uday P. Warunjikar for Applicant
  - Mr. Ajinkya Udane for Respondent
- .....

**CORAM : MILIND N. JADHAV, J.**

**DATE : DECEMBER 02, 2022**

**P.C.:**

- 1.** Heard Ms. Chavan, learned Advocate for Applicant-wife and Mr. Udane, learned Advocate for Respondent-husband.
- 2.** Perused the Application. This is an Application filed under Section 24 of the Code of Civil Procedure, 1908 by the Applicant-wife.
- 3.** Parties got married on 28.11.2004. After marriage, there were differences and altercations between the parties. They started living separately since 14.06.2022. Applicant filed proceedings under 125 of Cr.P.C., 1973 which is pending before the Judicial Magistrate of First Class, Chiplun.
- 4.** Respondent – husband initiated proceedings for divorce which is pending on the file of Family Court, Pune of which transfer is sought by Applicant to District Judge and Additional Sessions Judge, Chiplun.

**5.** Respondent has not filed affidavit-in-reply. However, Mr. Udane, learned Advocate for Respondent submitted that Respondent has no objection and consents for such transfer.

**6.** 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.

**7.** 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.

**8.** In the present case if the Applicant - wife is forced to go Pune to attend the proceedings, 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 Pune to District Judge and Additional Sessions Judge, Chiplun.

**9.** Since the contentions are not controverted, in my opinion, ground of hardship has to be considered in favour of the Applicant.

**10.** In view of the above, Application is allowed and disposed of in terms of prayer clause (a) which reads as under:-

*“(a) This Hon’ble Court be pleased to issue Order under Section 24 of the Civil Procedure Code for transferring of the Proceedings being Petition No. A-1563 of 2022, pending before Family Court No. 3 Pune to District Judge and Additional Sessions Judge, Chiplun.”*

**11.** Both the parties have agreed that they shall make a request to the transferee Court to have both the proceedings to be held on the same date.

[ MILIND N. JADHAV, J. ]

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