

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR
MISC. CIVIL APPLICATION (TR) NO. 429 OF 2021

Jyotsna Sanjay Superkar

vs.

Sanjay Govindrao Superkar

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. Sumit Gandhe, Advocate for applicant.
Mr. Vijay Morande, Advocate for respondent.

CORAM : MANISH PITALE J.

DATE : 26/04/2022

By this application, the applicant (wife) is seeking transfer of divorce petition bearing H.M.P No.A-97/2019, filed by the respondent (husband) before the Court of Civil Judge Senior Division, Gangakhed, District – Parbhani to the Family Court at Yavatmal.

2. This Court issued notice in the present application and granted stay of further proceedings in the said petition. The respondent has appeared through counsel and filed reply.

3. Mr. Gandhe, learned counsel appearing for the applicant submits that in the present case, the

applicant is finding it inconvenient to attend the proceedings in the aforesaid petition filed at the Court at Gangakhed, District – Parbhani, because of the considerable distance between Yavatmal and Gangakhed. It is further submitted that at least two proceedings initiated at Yavatmal are pending and therefore, it would be appropriate that divorce petition is also transferred to the Family Court at Yavatmal.

4. Mr. Vijay Morande, learned counsel for the respondent submitted that the proceedings in the divorce petition have reached the stage of judgment and it is a matter of fact that the applicant did file her written statement, to the aforesaid divorce petition. It was submitted that this indicates that she had attended the proceedings in the Court at Gangakhed.

5. Attention of this Court was invited to order dated 03/05/2017, passed in an earlier transfer application filed on behalf of the applicant concerning prayer for transfer of custody petition pertaining to children, from the Court at Gangakhed to competent Court at Yavatmal. The said application was disposed of only with a direction to the respondent to pay Rs.5000/- per date towards

expenses to the applicant to attend the proceedings in the Court at Gangakhed.

6. It was submitted that the respondent had suffered an accident, due to which, he is having difficulty in travelling. It is also brought to the notice of this Court that there is an FIR registered against the brother of the applicant at Gangakhed for having assaulted the respondent by a means of knife. On this basis, it is submitted that the respondent is strongly opposing the prayer made in the present application.

7. This Court has perused the material on record. The earlier order passed by this Court in the Misc. Civil Application No.822 of 2016 on 03/05/2017, on a similar plea for transfer of proceeding, shows that the said prayer was not accepted by this Court and instead the aforesaid direction to pay expenses per date was issued against the respondent. The fact that the applicant did file reply/written statement to the divorce petition has not been denied. It is also not denied that the proceedings before the Court at Gangakhed, District – Parbhani have reached the stage of judgment. In such a situation, particularly in the backdrop of the fact that the aforesaid FIR is registered against the

brother of the applicant at Gangakhed and there is material to indicate that the respondent indeed suffered injuries in a serious accident, this Court is of the opinion that the prayer for transfer of the proceedings from Gangakhed to Yavatmal cannot be granted. Instead, an appropriate direction can be given for paying expenses for attending the case at Gangakhed.

8. It is significant that in the present case, although there are three children from the wedlock, they have all attained the age of majority and the eldest daughter is already married. Therefore, there is no case made out by the applicant that there are any minor children who need her attention or she would find it extremely difficult to travel from Yavatmal to Gangakhed, District Parbhani. Hence, the present application is disposed of only with a direction to the respondent to deposit an amount of Rs.5000/- for the date on which the applicant is required to attend the proceedings in the aforesaid divorce petition pending at the competent Court in Gangakhed, District Parbhani. The said amount shall be disbursed in favour of the applicant, if she attends the proceedings before the Court.

9. Needless to say, the applicant would be at liberty to take all such steps available to her to contest the aforesaid divorce petition at the Court in Gangakhed, District – Parbhani.

10. Application stands disposed of.

JUDGE