

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

Criminal Application No. 71 of 2021

Shailendra S/o Laxmikant Tiwari
Versus
Ritu Shailendra Tiwari and another

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Ms. Saumya Chaube, Advocate h/f Shri S.N. Bhattad,
Advocate for the applicant.

Shri Saurabh Bhende, Advocate for the non-applicant
nos.1 and 2.

**CORAM : ANIL S. KILOR, J.
DATED : 20th APRIL, 2022.**

This is an application filed by the husband
against his wife and minor daughter seeking transfer of
Petition No. E/276/2021 pending before the Family
Court at Nagpur to the file of Chief Judicial Magistrate
at Wardha.

2. I have heard learned counsel for the
respective parties.

3. Ms. Chaube, learned counsel for the
applicant submits that the transfer is sought looking to

the convenience of both the parties as the respondent no.1 is serving at Wardha in MSRTC and the minor daughter of the applicant is also studying at Wardha. It is submitted that the respondent no.1 is not only serving at Wardha, but she is also staying at Wardha.

4. On the other hand, Shri Bhende, learned counsel for the respondents opposes the present application and submits that the respondent no.1 is seeking transfer from Wardha to Nagpur. He also further submits that the respondent no.1 is residing with her sister in Nagpur. He further submits that as far as respondent no.2 is concerned, she is attending the school from home as after pandemic, still the school are on virtual mode.

5. To consider the rival contentions of the parties, I have perused the record.

6. The record shows that the respondent no.1 is serving in MSRTC at Wardha. The identity card of the respondent no.2 issued by her school, shows the address as Borgaon Megha, Wardha.

7. Thus, it is amply established by the applicant that the respondent no.1 is serving at Wardha

and even the school of the respondent no.2 is at Wardha.

8. Learned counsel for the respondent nos. 1 and 2 submits that there is a threat to the life of the respondents, if the respondents attend the matter at Wardha.

9. This argument cannot be accepted for the simple reason that for all other purposes, the respondents are staying at Wardha and they have no threats, however when it comes to attend the court proceedings, the respondents have apprehension that there is a threat to their life. Thus, this apprehension is misplaced and cannot be accepted.

10. Nothing has been brought on record by the respondents to show that they are residing at Nagpur

11. While considering the application under Section 407 of the Code of Criminal Procedure, one of the factor to be taken into consideration is to the convenience of the parties. In this case, the applicant, respondent nos. 1 and 2 are resident of Wardha. The respondent no.1 is serving and respondent no. 2 is taking education at Wardha. Thus, it would be

convenient for both the parties to attend the aforesaid proceeding at Wardha.

12. Accordingly, I pass the following order.

ORDER

- i. Criminal application is allowed;
- ii. The Petition No. E/276/2021 (Ritu Tiwari Vs. Shailendra Tiwari) pending before the Family Court at Nagpur shall be transferred to Chief Judicial Magistrate at Wardha. Thereupon, the learned Chief Judicial Magistrate at Wardha shall issue notice to the parties fixing the date for the pending proceedings;

[ANIL S. KILOR, J.]

SACHINDANAND
K NAIR

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by
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