

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

MISC. CIVIL APPLICATION NO. 176 OF 2022

Karan Gyanchand Pahuja -- Applicant
Vs.
Kanchan Pahuja -- Respondent

WITH
MISC. CIVIL APPLICATION NO. 568 OF 2021

Kanchan Karan Pahuja -- Applicant
Vs.
Karan Gyanchand Pahuja -- Respondent

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

MCA No.176/22
Mr. Arjun Raoka, Advocate for Applicant
Ms. Surbhi Naidu, Advocate for Respondent
MCA No. 568/2021
Mr. R.H. Rawlani, Advocate for Applicant
Mr. Arjun Raoka, Advocate for Respondent

CORAM : MANISH PITALE, J.

DATE : 28th APRIL, 2022

Two transfer applications have come up for consideration before this Court. M.C.A. No.568/2021, is an application filed by the applicant (wife), seeking

transfer of divorce petition filed by the respondent therein i.e. the husband from the Family Court at Nagpur to the Family Court at Pune. M.C.A. No. 176/2022, is filed by the applicant therein i.e. the husband seeking transfer of proceedings initiated by the wife bearing M.C.A. No.544/2021, before the competent Court at Pune under the provisions of the Protection of Women from Domestic Violence Act, 2005, to the competent Court at Nagpur.

2. In the transfer application filed by the wife, this Court issued notice and granted interim stay by order dated 18/11/2021, and in the transfer application filed by the husband, this Court issued notice and tagged the said application with the transfer application filed by the wife.

3. Today, both the applications were taken up for consideration together.

4. Ms. Surbhi Naidu, learned counsel appearing for the applicant (wife) and Mr. Arjun Raoka, learned counsel appearing for the applicant (husband) in these two applications contended in support of the case of their respective clients.

5. It is contended on behalf of the applicant (wife) that there is a minor child of about three years, who is in her custody at Pune and that, she is dependent on her brother. It is submitted that attempts were made earlier for reconciliation between parties, but, due to the conduct of the husband, the applicant (wife) was unable to continue in the matrimonial house at Nagpur. It is submitted that, considering the distance between Pune and Nagpur and the fact that the minor child is with the applicant, as also because she has no independent source of income, it will be extremely difficult for the applicant (wife) to defend her cause effectively if the divorce petition is not transferred from Nagpur to Pune.

6. On the other hand, learned counsel appearing for the applicant (husband) in the other transfer application submitted that he is seeking transfer of the proceedings initiated under the Protection of Women from Domestic Violence Act, 2005, from Pune to Nagpur. The record would show that the complaint under the aforesaid Act was filed by the wife after the divorce petition was filed by the husband at Nagpur. It was further submitted that the applicant (husband) has serious apprehension regarding his safety, as he apprehends that the brother of the respondent (wife) in the said transfer application may

cause bodily injury to the applicant (husband). It is submitted that, therefore, the proceeding at Pune deserves to be transferred to Nagpur and the transfer application filed by the wife deserves to be dismissed.

7. This Court has considered the rival contentions in the backdrop of the applications and material placed on record. The husband was unable to controvert the assertions made on behalf of the applicant (wife) that she does not have any independent source of income and the fact that the minor child is living with the applicant wife at Pune. The child is only about three years old. In these circumstances, this Court is of the opinion that it would be in the interest of justice that the transfer application filed by the applicant (wife) is allowed, particularly because in such cases the convenience of the wife is one of the major considerations.

8. Insofar as apprehension expressed by the husband in the companion application for transfer of proceeding from Pune to Nagpur, there is hardly any material on record to support the apprehension sought to be expressed on behalf of the husband. The applicant (husband) has not been able to deny the fact that he is having reasonable source of

income through business and that to travel from Nagpur to Pune would not put him to any grave inconvenience.

9. In view of the above, M.C.A. No. 568 of 2021, is allowed. Accordingly, the divorce petition bearing No. A-266/2021, filed by the respondent (husband) therein is transferred from the Family Court at Nagpur to the Family Court at Pune. The Family Court at Nagpur is directed to immediately transmit the record of the said petition to the Family Court at Pune.

10. For the reasons stated above, M.C.A. No. 176/2022, is dismissed.

JUDGE