

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

**MISC. CIVIL APPLICATION (TR.) NO. 628 OF 2022**

**PETITIONER** : Mrinmayee W/o Yashodeep Khadse,  
Aged about 30 years, Occ: Housewife,  
Presently C/o. Dr. Ashok Kharat,  
Prassannakshi, Chikhli Road, Near  
Saraswati High School, Congress Nagar,  
Sundarkhed, Buldhana, Tq. and  
Buldhana 443002 (Maharashtra).

**//VERSUS//**

**RESPONDENT** : Yashodeep S/o Sahebrao Khadse, Aged  
35 years, Occ: Service, R/o. Flat No.  
B/603, Vedant Residency, Phase-2, S.  
No.262/4, Thaksen Vasti Susgaon Pune  
– 411021, Maharashtra.

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Mr. A.P. Wachasundar, Advocate for the Petitioner.

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**CORAM** : **ABHAY AHUJA, J.**  
**DATE** : **18<sup>th</sup> NOVEMBER, 2022.**

**ORAL JUDGMENT**

This is an application filed by the Petitioner-Wife  
under Section 24 of the Code of Civil Procedure, 1908 (for short  
“CPC”) seeking transfer of Hindu Marriage Petition

No.A/1175/2022, filed by the Respondent-Husband in the Family Court at Pune to the Family Court at Buldhana.

02] The brief facts are that the marriage between the Petitioner-Wife and the Respondent-Husband was solemnized on 11<sup>th</sup> April, 2019 at Akola, as per Hindu Rites and Customs. For three months after marriage, the Petitioner and Respondent stayed at Susgaon, Pune and thereafter they shifted to Tathawade. It is the case of the Petitioner that between the period 2019 and 2021, the Respondent-Husband treated the Petitioner with cruelty and therefore, on 21<sup>st</sup> September, 2021, the Petitioner left the company of her husband and came to Buldhana at her parents place. It is submitted that in June, 2022, the Respondent has instituted the aforesaid proceedings for restitution of conjugal rights before the Family Court at Pune, to which, reply has already been filed by the Petitioner. It is further submitted that in August, 2022, the Petitioner has filed divorce proceedings against the Respondent-Husband in the Family Court at Buldhana and has also served the same upon the Respondent.

03] Mr. Wachasundar, learned counsel for the Petitioner would submit that the Petitioner though qualified, at the moment is unemployed and staying with her parents. He submits that

having no source of income, the Petitioner-Wife is fully dependant on her parents for her upkeep. He submits that the distance between Buldhana and Pune is about 400 kms and it would not only be inconvenient for her to travel up and down from Buldhana to Pune every time the matter is listed in the Court at Pune, but also cause undue hardship. She has neither means of her own to travel nor a place to stay at Pune. Learned counsel would submit that the stage of the proceedings before the Family Court at Pune, when the stay was granted by this Court on 21.10.2022, was for framing of issues and the stage of proceedings filed by the Petitioner-Wife before the Court at Buldhana is for filing of reply. He, therefore, submits that if the proceedings pending in the Family Court at Pune are transferred to Family Court, Buldhana, no such inconvenience would be caused to the Respondent-Husband and it would also avoid multiplicity of proceedings.

04] Learned counsel submits that despite service on the Respondent sole, he is neither present nor represented by any counsel in the matter. He, therefore, submits that the proceedings pending before the Family Court at Pune be transferred to the Family Court at Buldhana.

05] I have heard learned counsel for the Petitioner and with his able assistance, I have perused the record and proceedings in the matter.

06] The settled principle of law for exercise of power under Section 24 of the Code of Civil Procedure, 1908 is that ends of justice should demand the transfer of the suit, appeal or other proceeding. That it is the undue hardship that would be caused to the wife that would be the determining factor. That in matrimonial disputes, it is the convenience of the wife which is preferred over the convenience of the husband.

07] The Hon'ble Apex Court in a recent decision (by Their Lordships Hon'ble Shri Justice S. Abdul Nazeer and Hon'ble Shri Justice J. K. Maheshwari, JJ) in the case of **N.C.V. Aishwarya ..V/s.. A. S. Saravana Karthik Sha, dated 18.07.2022 in Civil Appeal No(s).4894 of 2022 (arising out of S.L.P.(C) No(s). 16465 of 2021)**, has in paragraph 9 observed as under :

**“9. The cardinal principle for exercise of power under Section 24 of the Code of Civil Procedure is that the ends of justice should demand the transfer of the suit, appeal or other proceeding. In matrimonial matters, wherever Courts are called upon to consider the plea of transfer, the Courts**

*have to take into consideration the economic soundness of both the parties, the social strata of the spouses and their behavioural pattern, their standard of life prior to the marriage and subsequent thereto and the circumstances of both the parties in eking out their livelihood and under whose protective umbrella they are seeking their sustenance to life. Given the prevailing socioeconomic paradigm in the Indian society, generally, it is the wife's convenience which must be looked at while considering transfer.*"

*(Emphasis Supplied)*

08] This is a case, as stated above, where after solemnization of marriage on 11<sup>th</sup> April, 2019, the Husband and Wife had stayed together until 21<sup>st</sup> September, 2021, when the Petitioner-Wife troubled by the cruelty meted out to her by the Husband, left the company of her Husband to stay with her parents at Buldhana. That the Petitioner though qualified, at the moment is unemployed and dependant on her parents financially and otherwise. That the distance between Buldhana and Pune is about 400 kms and it would not only be inconvenient for the Petitioner to travel 800 kms up and down from Buldhana to Pune and back every time, when the matter is listed in the Court at Pune, but also cause undue hardship, as she has no place to stay in Pune.

09] As observed above, it is the convenience of the wife that has to be seen at the time of considering such transfer petitions under Section 24 of the CPC. The Respondent-Husband though served is neither present nor represented. As such, it appears that he is not interested in contesting this application.

10] Therefore, in my view, the ends of justice would be served, if the Hindu Marriage Petition No.A/1175/2022 pending in Pune is transferred to Buldhana. This will also avoid multiplicity of proceedings, as the divorce proceedings stated to be filed by the Petitioner-Wife at Buldhana can also be heard together.

11] In the circumstances, let the proceedings being Hindu Marriage Petition No.A/1175/2022 under Section 9 of the Hindu Marriage Act, 1955 pending before the Family Court at Pune be transferred to the Family Court at Buldhana.

12] It is, however, made clear that, if a video conferencing facility is available in the Court at Buldhana, then on dates when the physical presence of the Respondent-Husband is not required, he may be permitted to attend the proceedings through video conferencing, upon an appropriate application made to the Court at Buldhana in that behalf.

- 13] The Application stands allowed in the above terms.
- 14] All to act on an authenticated copy of this decision.

**(ABHAY AHUJA, J.)**

Vijay