

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

MISC. CIVIL APPLICATION NO.108 OF 2021

**MRS. PRIYANKA PRATIK WAGHOLIKAR
VERSUS
MR. PRATIK ASHOK WAGHOLIKAR**

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Ms. Akshara S. Madake, Advocate h/f Mr. Sachin S. Randive,
Advocate for Applicant

Ms. Pallavi P. Wangikar, Advocate for Respondent (Appointed)

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CORAM : NITIN B. SURYAWANSHI, J.

DATE : 14th SEPTEMBER, 2023

PER COURT :

1. This application is filed by the applicant wife seeking transfer of proceeding i.e. P.A. No.41/2021, pending before the Family Court No.1 at Pune, to the Family Court at Aurangabad.
2. Heard learned advocate for applicant and learned advocate for respondent. Perused the memo of application and the annexures thereto.
3. It is the contention of applicant wife that she is residing at her maternal house at Aurangabad. She has lodged complaint against respondent and his family members, on the basis of which FIR No.141/2017 is registered at Sahkarnagar Police Station, Pune, for offence punishable under Sections 307, 498-A, 323, 504, 506(1) and 34 of the Indian Penal Code. Applicant has filed P.W.D.V.A.

Application No.500/2018 against respondent, in the Court of Chief Judicial Magistrate, Aurangabad. Learned advocate for the applicant wife submits that, applicant wife has also filed Petition E No.187/2021, under Section 125 of the Criminal Procedure Code, for maintenance, in the Family Court at Aurangabad. She has seven years old son and considering the distance between Aurangabad and Pune, which is 220 Kms, it would be very difficult for her to travel such a long distance to attend the Court proceedings at Pune. Her financial condition is also very poor. Therefore, the proceedings filed by respondent husband before the Family Court at Pune be transferred to Aurangabad.

4. Learned advocate for respondent husband vehemently opposed the prayer by relying on decision of the learned Single Judge of this Court [Coram: Bharati Dangre, J.] in Misc. Civil Application No.81/2020 (Mrs. Ketaki Prathamesh Salekar Vs. Prathamesh Ashok Salekar). She submits that the applicant is working as part time beautician and as an agent in Tokio Like Insurance Company. Therefore, ground of financial poor condition, is not acceptable. It would be inconvenient for respondent husband to attend the proceedings at Aurangabad.

5. It is well settled principal of law that ordinarily convenience of the wife needs to be considered, while deciding

application for transfer of proceeding. In **N.C.V. Aishwarya Vs. A.S. Saravana Karthik Sha**, 2022 SCC OnLine SC 1199, it is held;

"9. The cardinal principal 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 Court 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 sociology-economic paradigm in the Indian society, generally, it is the wife's convenience which must be looked at while considering transfer."

6. In the light of aforesaid ratio, and considering the fact that proceedings under Protection of Women from Domestic Violence Act and under Section 125 of the Code of Criminal Procedure are pending at Aurangabad and the fact that it would be inconvenient for the applicant wife to travel to Pune on each and every date of the proceeding, application deserves to be allowed. The decision relied upon by learned advocate for respondent is rendered in the facts of that case and is of no assistance to the case of respondent. Applicant has made out case for transfer of the proceedings. Hence, the following order:

ORDER

1. Civil Miscellaneous Application is allowed.
2. P.A. No.41/2021 pending before the Family Court No.1 at Pune, is hereby transferred to the Family Court, Aurangabad.
3. Fees of the learned advocate appointed to represent respondent husband is quantified at Rs.2,500/-. The High Court Legal Services, Sub-Committee, Aurangabad, to pay the same within a period of four weeks from today.

(NITIN B. SURYAWANSHI, J.)