

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

MISC. CIVIL APPLICATION NO.100 OF 2023

Shaikh Imran @ Irfan Shaikh Habiboddin Applicant

Versus

Shaikh Tabassum W/o Imran @
Irfan Shaikh Respondent

.....

Mr. Suvidh S. Kulkarni, Advocate for the Applicant
Mr. Yogesh K. Bobade, Advocate for the Respondent

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 07th September , 2023

ORDER :

1. This application is filed by the applicant/husband for transfer of proceedings from Georai Court to Paithan Court on the ground that, when he was going to attend proceedings at Georai, he was assaulted by the wife's relatives. In support of his contentions he has placed reliance on private complaints filed by him in the Court of Judicial Magistrate, First Class at Paithan bearing S.C.C. No. 149 of 2019 and S.C.C. No.61 of 2019.

2. Respondent/wife has filed affidavit-in-reply and opposed the application contending that only with a view to avoid payment of maintenance, the husband has adopted

dilatory tactics and has filed the present application. Reliance is placed on the decision in ***N.C.V. Aishwarya Vs. a.s. Saravana Karthik Shah, 2022 SCC Online SC 1199***, and the observations made by the learned Judicial Magistrate, First Class, (Court No.2), Georai in order below Exhibit-60 in Cri. M.A. No.602 of 2018.

3. Heard the learned advocate for the applicant and learned advocate for the respondent. Perused the memo of application, annexures thereto and citations relied upon by the respondent.

4. Admittedly, three proceedings i.e. R.C.C. No.99 of 2019, and Criminal M.A. No.601 of 2018 as well as P.W.D.V.A No.602 of 2018 are pending at Georai Court, which the applicant seeks to transfer at Paithan Court.

5. It settled legal position that convenience of the wife needs to be considered while deciding application for transfer of proceeding. The wife is staying at a village, which is 10 km away from Georai, where the proceedings are presently pending. If the proceedings are transferred to Patithan Court at the instance of the applicant/husband, respondent/wife will have to travel 40 km distance on each and every date. The

applicant/husband has already lodged two private complaints against the relatives of wife, which he may prosecute at Paithan Court. Possibility cannot be ruled out that only with a view to create ground for transfer, the said complaint might have been lodged by the applicant. In this view of the matter and in view of ratio in ***N.C.V. Aishwarya*** (surpa), no case is made out by the application for transfer of the matters pending at Georai Court. The application being devoid of merit is dismissed.

[NITIN B. SURYAWANSHI]
JUDGE

S.P. Rane