

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

MISC. CIVIL APPLICATION NO.174 OF 2023

**PRIYA AKSHAY TEHARE
VERSUS
AKSHAY SHIVAJI TEHARE**

...

Mr. Mahesh K. Bhosale, Advocate for Applicant
Ms. Pranoti Karpe, Advocate h/f Mr. Avinash S. Khedkar, Advocate
for Respondent

...

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 31st AUGUST, 2023

PER COURT :

1. This application is filed by the applicant wife seeking transfer of proceeding i.e. Petition No.A-457/2022, pending before the Family Court at Aurangabad, to the Court of learned Civil Judge, Senior Division, Pune.
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 Dighi, Pune. She has lodged complaint against respondent and his family members, on the basis of which FIR No.188/2023 is registered at Dighi Police Station, Pimpri Chinchwad, for offence punishable under Sections 323, 498-A, 504, 506 and 34 of the Indian Penal Code. Applicant has also filed

PWDVA Application No.41/2023, in the Court of Civil Judge, Senior Division, Khadaki, Pune. Therefore, the proceedings filed by respondent husband before the Family Court at Aurangabad be transferred to Pune. Learned advocate for the applicant wife submits that, applicant is suffering from various post pregnancy complications and considering the distance between Dighi and Aurangabad which is 240 Kms, it would be very difficult for her to travel such a long distance to attend the Court proceedings at Aurangabad.

4. Learned advocate for respondent husband vehemently opposed the prayer contending that the respondent husband is working at Aurangabad and since respondent and applicant were residing at Aurangabad after marriage, he has filed petition in the Family Court at Aurangabad. It would be inconvenient for him to attend the proceedings, if the same is transferred to the Court at Pune.

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.

6. 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."

7. In the light of aforesaid ratio, and considering the fact that it would be inconvenient for applicant wife to travel such a long distance to attend the proceedings at Aurangabad, the application deserves to be allowed. In the result, following order:

ORDER

1. Civil Miscellaneous Application is allowed.
2. Petition No.A-457/2022 pending before the Family Court at Aurangabad, is hereby transferred to the Court of learned Civil Judge, Senior Division, Pune.

(NITIN B. SURYAWANSHI, J.)