

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

MISC.CIVIL APPLICATION NO.183 OF 2023

Shradha W/o. Pradip Jadhav,
Age- 23 years, Occ- Nil,
C/o. Dhanraj Ramchandra Rajput,
R/o. Rajur, Tq. Akole,
District- Ahmednagar

Applicant

Versus

Pradip Shankar Jadhav
Age- 31 years, Occ- Service
R/o. Kamathipura, Kaikadi Ali,
Ghodnadi, Tq. Shirur,
Dist. Pune

Respondent

Mr. S.S. Dixit, Advocate for applicant.
Miss. Mitali Vyas, appointed advocate for respondent.

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 12th OCTOBER, 2023

ORDER :

1. This application is filed by applicant/wife seeking transfer of proceeding i.e. Marriage Petition No. 505/2023 filed by respondent/husband in the Court learned Civil Judge, Senior Division, Pune to learned Civil Judge, Senior Division, Sangamner, District- Ahmednagar.

2. It is the contention of the wife that she has filed Criminal Misc. Application No. 289/2021, which is pending in the

court of learned Judicial Magistrate First Class, Akole. She is residing with her parents at maternal home. Her parents are old and infirm and cannot travel with her on each and every date as distance between Pune and Rajur is about 190 km. She therefore prays for transfer of Marriage Petition No. 505/2023 from learned Civil Judge, Senior Division, Pune to learned Civil Judge, Senior Division, Sangamner, District- Ahmednagar.

3. Learned advocate for the husband vehemently opposed the prayer contending that he is in service and it is difficult for him to attend the proceeding from Pune to Sangamner.

4. Heard the learned advocate for the applicant and learned advocate for the respondent. Perused the memo of application, annexures thereto and the reply filed by respondent.

5. It is well settled principle 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 since proceedings i.e. Criminal Misc. Application No. 289/2021, is pending in the court of learned Judicial Magistrate First Class, Akole and it would cause inconvenience and hardship to her if she asked to travel such a long distance to attend the proceeding at Pune, it is desirable to transfer proceeding i.e. Marriage Petition No. 505/2023 pending in the Court of learned Civil Judge, Senior Division, Pune to learned Civil Judge, Senior Division, Sangamner, District- Ahmednagar. In the result, following order:

ORDER

1. Civil Miscellaneous Application is allowed.
2. Marriage Petition No. 505/2023 filed by respondent/husband in the Court of learned Civil Judge, Senior Division, Pune, is hereby transferred to the learned Civil Judge, Senior Division, Sangamner, District- Ahmednagar.

7. Fees of learned advocate appointed to represent respondent is quantified at Rs. 2500/- to be paid by High Court Legal Services (Sub-Committee), Aurangabad, within four weeks from the date of receipt of this order.

[NITIN B. SURYAWANSHI, J.]