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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

MISCELLANEOUS CIVIL APPLICATION NO.275 OF 2021

Vrushali Vikram Rathod

APPLICANT

VERSUS

Vikram Devidas Rathod

RESPONDENT

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Ms. Pallavi P.Wangikar h/f Mr. R. V. Gore Advocate for applicant
Mrs. P. V. Langhe, Advocate for the respondent

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 7th SEPTEMBER, 2023

ORDER :

1. By this application, filed under Section 24 of the Civil Procedure Code, the applicant – wife seeks transfer of matrimonial proceedings bearing HMP No. A 478 of 2021 pending in the Family Court, Aurangabad to the Court of learned Civil Judge, Senior Division, Chalisgaon, District – Jalgaon, mainly on the ground that proceedings filed by her i.e. PWDVA No. 108 of 2017 and RCC No. 150 of 2017 are pending at Chalisgaon and her parents' permanent residence is at Chalisgaon. Though she is presently residing at Ulhasnagar, District – Thane, it is convenient for her to attend proceedings at Chalisgaon Court, due to railway connectivity between Thane

and Chalisgaon.

2. Learned advocate for the respondent – husband, vehemently opposed the prayer of the applicant, relying on *"Ramesh Mohanlal Bhutada, Advocate and Another V/s State of Maharashtra"* 2011 (6) Mh.L.J. 167; *"Ketaki Prathamesh Salekar @ Ketaki Ravindra Pawshe V/s Prathamesh Ashok Salekar"* 2021 (2) ALL MR 66; *"Prashant Manmohanji Laddha and Another V/s Madhuri Prashant Laddha and Others"* 2018 ALL MR (Cri) 2971; *"Dr. Saurabh Shivhar Velukar and Others V/s State of Maharashtra and Others"* 2018 (4) M.L.J. (Cri) 792. According to her, only with a view to harass the husband, the proceeding is sought to be transferred at Chalisgaon instead of Thane, where admittedly, the wife is presently residing along with her son. She further submitted that the wife has admitted in her deposition that she is residing at Ulhasnagar District – Thane and doing teaching job there. In that view of the matter, she submits that instead of seeking transfer of the proceeding at Thane, only to harass the husband, the proceeding is sought to be transferred at Chalisgaon and, therefore, the prayer of the wife may not be entertained.

3. Heard learned advocate for the applicant and the learned advocate for the respondent. Perused the memo of Miscellaneous

Civil Application, annexures and the citations relied on by the learned advocate for the respondent.

4. It is a matter of record that the wife is residing at Ulhasnagar, District – Thane and doing teaching job there. She has admitted that fact in her deposition. She has also mentioned in the cause title of the present Miscellaneous Civil Application that she is presently residing at Ulhasnagar, District – Thane, but she has also mentioned that her permanent residence is at her parents’ house at Chalisgaon.

5. It further appears that two proceedings i.e. PWDVA No. 108 of 2017 and RCC No. 150 of 2017 are pending at Chalisgaon. It is pertinent to note that in the HMP proceedings No. A 478 of 2021, which is sought to be transferred to Chalisgaon, the respondent – husband has mentioned address of the wife as resident of Aditya Nagar, Chalisgaon, presently at Mumbai. The respondent – husband challenged the proceedings in PWDVA No. 108 of 2017 on the point of jurisdiction and his challenge is repelled by this Court, in Criminal Writ Petition No. 1071 of 2022 by order dated 5th June, 2023.

6. In the light of these facts, since two proceedings are pending in Chalisgaon Court, it is desirable to transfer

proceedings filed by the husband at Aurangabad to Chalisgaon Court.

7. There cannot be any dispute about the proposition laid down in the judgments cited by the learned advocate for the respondent, however, in the peculiar facts of the present case, since two matrimonial proceedings are already pending at Chalisgaon Court, taking into consideration the convenience of wife, as per the ratio in ***N.C.V. Aishwarya Vs. A.S. Saravana Karthik Sha, 2022 SCC OnLine SC 1199***, this Court is inclined to allow the application.

8. In the result, the Miscellaneous Civil Application is allowed. HMP No. A 478 of 2021, pending before the Family Court at Aurangabad is transferred to the Court of learned Civil Judge, Senior Division, Chalisgaon. Hearing of the said proceeding is expedited.

[NITIN B. SURYAWANSHI]
JUDGE