

AGK

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

MISCELLANEOUS CIVIL APPLICATION NO.202 OF 2022

Rubiya Akash Bansode	
Alias Rubiya Subhas Dhone	... Applicant
V/s.	
Akash Shrimant Bansode	... Respondent

Mr. Sagar S. Tambe i/by Mr. Ritesh M. Thobde for the applicant.

Mr. Nikhil N. Pawar for the respondent.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 17, 2023

P.C.:

- 1.** The wife has filed present miscellaneous civil application seeking transfer of proceedings pending before the District Court, Kalyan to the Family Court, Solapur.
- 2.** The marriage between the applicant and respondent took place on 9th August 2019 before Office of Sub-Registrar and thereafter again on 3rd November 2019 in presence of the relatives. Due to matrimonial differences, parties started residing separately. The respondent filed proceedings for divorce before the District Court, Kalyan. The applicant also filed complaint under the provisions of the Protection of Women from Domestic Violence Act, 2005 seeking maintenance before the Judicial Magistrate First

Class, Solapur. The applicant has, therefore, filed present miscellaneous civil application seeking transfer of proceedings pending before the District Court, Kalyan to the Family Court, Solapur.

3. The respondent has contested the application stating that the respondent has filed complaint under section 420 of the Indian Penal Code, 1860 against the wife. Additionally, the parents of the respondent are old.

4. The applicant has stated on oath that the applicant is residing at Solapur. Considering the distance of around 350 to 400 kms. between Solapur and Kalyan, it takes eight (8) hours to reach Kalyan. There is nobody to accompany the applicant to travel to Kalyan.

5. The Apex Court in **N.C.V. Aishwarya v. A.S. Sarvana Karthik Sha** reported in 2022 SCC OnLine SC 1199 while considering the issue of transfer of proceedings on an application filed by the wife in paragraph 9 held as under:

“9. The cardinal principle 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 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 socio-economic paradigm in the Indian society, generally, it is the convenience which must be looked at while considering transfer.

6. Considering the distance between Solapur and Kalyan, I am satisfied that it is inconvenient for the wife to travel to Kalyan. The applicant has, therefore, made out a case for transfer.

7. The miscellaneous civil application is allowed in terms of prayer clause (a). No costs.

(AMIT BORKAR, J.)