

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

MISCELLANEOUS CIVIL APPLICATION NO. 367 OF 2022

Smt. Neha Nilesh Sahu @ Neha

Ashok Kumar Gupta.

... Applicant

v/s.

Shri Nilesh Ramdular Sahu.

.. Respondent

...

Mr. Shivraj Kunchge i/b. Mr.Rajneesh Ranjan Singh, for the
Applicant.

Mr. Ranvir Shekhawat a/w. Mr. Jagdish Choudhary i/b. Raj Legal,
for respondent.

...

CORAM : KAMAL KHATA, J.

DATED : 13TH JULY 2023.

P.C. :

1. This Miscellaneous Civil Application is filed by the applicant-wife under Section 24 of the Civil Procedure Code, 1908 to transfer Marriage Petition (M.P.) No.A-2026 of 2021 which is pending before the Family Court at Pune to the Family Court at Mumbai.

2. The Applicant's case is that her marriage was solemnized on 22/11/2019 at Goregaon, Mumbai. There are no issues out of the wedlock. Due to matrimonial differences, parties started residing separately. On 1/9/2021, Respondent-husband filed Marriage Petition No. A-2026 of 2021 under section 13(1) of the Hindu

Marriage Act, 1955. On 18th October, 2021, the applicant filed complaint under section 498A of the IPC against the Respondent. The applicant filed Interim Application in Marriage Petition No. A-2026 of 2021 on 11/11/2021. On 1/4/2022 maintenance application was filed by the applicant at Family Court, Bandra. On 20/11/2022, application for restitution of conjugal rights under section 9 of the Hindu Marriage Act was filed by the applicant at Family Court at Bandra.

3. The learned Counsel for the applicant states that the respondent has failed to pay any maintenance since 2021. She has no independent source of income. She needs someone to accompany her to Pune each time when she requires to attend court dates. It is submitted that the applicant has been continuously harassed and under total physical and mental emotional trauma. It is also submitted that the husband is well placed and no inconvenience would be caused to him.

4. The learned Counsel for the applicant states that the applicant has filed this application only to harass the respondent.

5. The law with respect to transfer of proceedings, particularly matrimonial disputes, is no longer *res-integra*, The ratio laid down by the Hon'ble Supreme Court in the cases of ***Sumita Singh v. Kumar Sanjay reported in (2001) 10 SCC 41 : AIR 2002 SC 396***

and *N.C.V. Aishwarya v. A. S. Saravana Karthik Sha reported in 2022 SCC OnLine 1199* that in matrimonial disputes, it is the convenience of the wife which is preferred over the convenience of the husband while considering the transfer of a case from one Court to another.

6. In view of the above I allow the transfer Application as follows:

1. The application is allowed in terms of prayer clause (a).
 2. The proceedings and application made in M.P. No.A-2026 of 2021 pending before the Family Court, Pune be stayed pending transfer; and be transferred to the Family Court, Mumbai.
 3. The Registry shall forward a copy of this order to the Family Court, Pune, with instructions to forthwith transmit all the records of M.P No. A-2026 of 2021 between the Respondent and Applicant to the Family Court, Mumbai, preferably within 4 weeks from the receipt of this order.
 4. The Family Court, Mumbai shall on receipt of the records of M.P. No. A-2026 of 2021, fix a date preferably within 3 weeks and issue notice to the parties for proceeding with the matter.
7. All concerned to act on the authenticated copy of this order.

(KAMAL KHATA, J.)