



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

MISC. CIVIL APPLICATION NO. 84 OF 2023

Kajal Kundalik Garje

...Applicant

V/s.

Kundalik Gautam Garje

...Respondent

Ms. Ketki Gadkari for the Applicant.

Mr. Shrirang Katneshwarkar for Respondent.

CORAM : ABHAY AHUJA, J.
DATE : 29th SEPTEMBER, 2023

PC. :

1. This is an Application under Section 24 of the Code of Civil Procedure, 1908 (the “CPC”) by Applicant- wife, seeking transfer of a Divorce Petition filed by the Respondent – husband before Civil Judge, Senior Division, Shrigonda, Ahmednagar to the Family Court at Pune.

2. Ms. Gadkari, learned Counsel for the Applicant would submit that in fact the Respondent himself is working in Pune and also staying there. Learned Counsel would submit that the Applicant is at the moment working in Pune and working as a trainee and earning about Rs. 20,000/- per month, whereas, Respondent is working for a broking

firm in Pune. She would submit that although the marriage between the Applicant and the Respondent was solemnized on 7th December, 2020 at Siddhatek, Taluka Karjat, District Ahmednagar, after which the parties stayed together till April 2022 in Pune, however, it is submitted that the Applicant has been subjected to physical and mental torture during the course of her marriage at the hands of the husband and his family members. That Divorce Petition came to be filed by the Respondent in Shrigonda in August, 2022. On 22nd November, 2022 a notice was issued to the Applicant and the Applicant was directed to remain present before the Civil Judge, Senior Division, Shrigonda, Ahmednagar. The Applicant has filed a police complaint against Respondent on 30th December, 2022.

3. Learned Counsel would submit that since the Applicant has recently got a job in Pune and earning only Rs. 20,000/-, she is striving hard to make ends meet. Learned Counsel would submit that the father of the Applicant gets occasional business to support himself and the mother of the Applicant. That from the income of the Applicant's father, it is difficult for the Applicant's father to even maintain himself, the Applicant's mother and younger sister of the Applicant and other siblings. It is submitted that due to her financial condition and current

circumstances, it is very arduous for her to travel from Pune to Ahmednagar to attend the hearings of the Petition filed by the Respondent husband in Shrigonda and therefore, this application for transfer. Learned Counsel would submit that it would therefore not only be inconvenient for the Applicant to travel to Shrigonda Court but also cause undue hardship.

4. Learned Counsel would submit that the stage before the Shrigonda Court before it was stayed by an order of this Court was for filing of Written Statement. Learned Counsel, therefore, urges this Court to allow the application.

5. Mr. Katneshwarkar, learned Counsel appears for the Respondent and submits that he has instructions to register a formal objection to the Application. Learned Counsel has been unable to dispute the submissions made by the learned Counsel for the Applicant including that the Respondent is not only employed in Pune but also residing in Pune.

6. The Hon'ble Supreme Court in the case of **N.C.V. Aishwarya Vs. A.S. Saravana Karthik Sha, SCC Online SC 1199 (2022)** has clearly held that in matters of this nature the convenience of the wife has to be considered. Paragraph No. 9 of the said decision is usefully quoted 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 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 behavioral 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 like. Given the prevailing socio-economic paradigm in the Indian society, generally, it is the wife's convenience which must be looked at while considering transfer.”

(Emphasis Supplied)

7. Having heard the learned Counsel and having perused the application and having considered the rival contentions, in view of the inconvenience and hardship to the wife, this Court is of the view that ends of justice would be served if the Marriage Petition No. 149 of

2022 pending before Civil Judge, Senior Division, Shrigonda, Ahmednagar is transferred to the Family Court at Pune.

8. Accordingly, application is allowed in above terms. Parties to bear their own costs.

9. It is made clear that any observation(s) on the merits of the dispute between the parties is only to consider this application which shall not influence the trial or disposal of the divorce petition which is to be tried and decided on its own merits, uninfluenced by the said observation(s).

(ABHAY AHUJA, J.)