



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

MISCELLANEOUS CIVIL APPLICATION NO.121 OF 2023

MRS.AKSHTA ARJUN KAMBLI)...APPLICANT

V/s.

MR. ARJUN SABAJI KAMBLI)...RESPONDENT

Ms.Grishma Lad, Advocate for the Applicant.

None for the Respondent.

CORAM : ABHAY AHUJA, J.

DATE : 27th SEPTEMBER 2023

PC. :

1. This is an Application seeking transfer of Divorce proceedings filed by the Respondent-husband before the Family Court at Bandra to the Civil Judge Senior Division, Sindhudurg.

2. Ms.Grishma Lad appears for the Applicant-wife and submits that despite service, none appears for the Respondent-husband and draws the attention of this Court to an earlier order dated 20th September 2023 and submits that, therefore, this Court hear the Application and pass the order.

3. Learned Counsel would submit that the marriage between the Applicant-wife and the Respondent-husband was solemnized on 8th December 2019 at Vengurli. She would submit that for no rhyme or reason, the Respondent-husband and his mother would harass the Applicant-wife and also physically assault her. Learned Counsel would submit that the demand for dowry has also been made from the Applicant-wife and the Applicant-wife has been threatened with her life, if she did not get the money. Learned Counsel refers to paragraphs 4 and 5 to explain the harassment and threats and abuses received by the Applicant-wife. Learned Counsel would submit that on 26th July 2020, due to physical assault, the Applicant-wife left the matrimonial home and came back to her parents' home. Thereafter, First Information Report (FIR) was lodged by the Applicant-wife against the Respondent-husband and his family members on 23rd June 2022 at Malvan Police Station. Thereafter, the Respondent-husband has filed the Divorce Petition against the Applicant-wife on 15th July 2022 which is pending in Bandra Family Court. On 9th November 2022, the Applicant-wife has also filed proceedings under the Protection of Women from Domestic Violence Act, 2005, before the Judicial Magistrate First Class, Malvan.

4. Ms.Grishma Lad, learned Counsel for the Applicant-wife, submits that the Applicant-wife has no means of income and has to depend on her family and live at their mercy. She would submit that the Applicant-wife comes from a very poor background and has no resources to undertake the financial burden to travel all the way to Family Court at Bandra. She would submit that even if she has, she cannot even afford to arrange anyone to accompany her to Mumbai every time the matter is listed before the Family Court at Bandra, Mumbai. She would submit that the distance between Sindhudurg and Mumbai is 461 kilometers one way and it takes more than 15 hours by train. Learned Counsel would submit that, therefore, for the Applicant-wife to travel to Mumbai would not only be inconvenient but also cause undue hardship.

5. On the other hand, the Respondent-husband is doing service and earning Rs.30,000/- per month and can easily travel to Mumbai,

6. I have heard the learned Counsel for the Applicant-wife. Though the Respondent-husband is served, neither he is present today, despite several opportunities, nor is represented. Therefore, the allegations and submissions made in the Application remain unchallenged.

7. The Hon'ble Supreme Court in the case of **N.C.V. Aishwarya Vs. A.S. Saravana Karthik Sha**¹ 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)

8. This Court has also in several such matters considered the inconvenience and hardship of the wife and allowed the Transfer Applications.

9. Having heard the learned Counsel and having perused the Application and considering the inconvenience and hardship to the wife

¹ SCC Online SC 1199 (2022)

as narrated above, this Court is of the view that ends of justice would be met if the Application is allowed. Accordingly, the Application stands allowed in terms of Prayer clause (a) which reads thus :

“(a) The proceedings in Divorce Petition No.A-2239/2022 pending before the Hon’ble Family Court, Bandra may kindly be transferred to the Civil Court (Senior Division), Sindhudurg District Court Building, Sindhudurnagari – Oros, Tal-Kudal, Dist:- Sindhudurg, Pin Code – 416812.”

10. The Application, accordingly, stands disposed.

11. It is made clear that any observations 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 observations.

(ABHAY AHUJA, J.)