

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

MISCELLANEOUS CIVIL APPLICATION NO.268 OF 2022

Shital Vijay Pol @Shital
Mahadev Chaughule
v/s.
Vijay Ramkrushna Pol

..Applicant

..Respondent

...

Mr. Yogesh Dabke for the Applicant.

...

CORAM : KAMAL KHATA, J.

DATED : 20TH JUNE 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 the Marriage Petition pending before the Learned Family Court Kolhapur to Family Court Bandra Mumbai.
2. The applicant's case is that the marriage was solemnized on 24th February 2019, at Kolhapur. During the stay at the matrimonial home, she has been subjected to various acts of Domestic Violence by the respondent. On account of dispute and discord between the respondent and the applicant, the FIR was filed on 6th November 2019 bearing No.894119 of

2019. The applicant left the matrimonial home to stay with the parents on 8th July 2019.

3. The learned counsel for the applicant submitted that the applicant is residing at her paternal home at Mumbai. She has no source of income and is totally dependent on her parents. She is unable to travel from Mumbai to Kolhapur which is 376.5 kilometers, from time to time, as it would take considerable time and cause undue hardship and expenses to the applicant. On account of discord, the applicant is also suffering from psychological trauma and is undergoing treatment for the same. In view of this she is unable to travel. On the other hand the respondent is having a business and well placed in life. Consequently, he submitted that the transfer application be allowed.

4. None appeared for 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 369*** 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 the light of the law laid down in the aforecited decisions, the pleadings and materials on record and the totality of the facts and circumstances of this case, particularly that not only the Applicant will suffer undue hardship herself but also have considerable inconvenience to travel with some companion besides traveling which would cause tremendous inconvenience and hardship. Consequently, I am inclined to exercise the discretionary powers of this Court under Section 24 of the Code of Civil Procedure and allow the application for transfer.

7. In the light of the above, I allowed the transfer application as follows:

(i) The proceedings bearing Marriage Petition No. A 135 of 2020 pending before Family Court Kolhapur be stayed Pending the transfer; and be transferred to the Family Court at Bandra Mumbai.

(ii) The registry shall forward the copy of this order to the

Family Court Kolhapur to transmit or record Marriage Petition No. A 135 of 2020 between the respondent and the applicant to the Family Court preferably at Bandra within the preferable period of four weeks from the receipt of this order.

(iii) The Family Court at Bandra on receipt of the records shall fix a date preferably within three weeks and issue to the parties for proceeding with the matter.

8. All concerned should act on the authenticated copy of this order.

(KAMAL KHATA, J.)