

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

MISCELLANEOUS CIVIL APPLICATION NO. 335 OF 2022

Sou. Samiksha Pravin Khanande	.. Applicant
v/s.	
Pravin Sonaram Khanande	.. Respondent

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Mr. Sanjay P. Shinde a/w. Mr. Prathmesh T. Bhanuwanshe for the Applicant.

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CORAM : KAMAL KHATA, J.

DATED : 4TH JULY 2023.

P.C. :

1. This Miscellaneous Civil Application is filed by the Applicant wife under section 24 of the Civil Procedure Code 1908, for transfer of Petition no. A-683 of 2021 filed by the Respondent husband from Family Court, Nashik to Civil Family Court at Yavatmal.
2. The Applicant's case is that the marriage took place on 26th December 2013. They have no issues out of wedlock. On account of marital discord, the applicant is staying separately with her parents. The Applicant had filed Criminal Misc. Application No. 68 of 2021 on 27th July, 2021 before Chief Judicial Magistrate, Yavatmal under Sections 18, 19, 20, 21

and 22 of the Protection of Women from Domestic Violence Act, 2005. The Applicant also filed Criminal Misc. Application No. 43 of 2021 in the Family Court at Yavatmal under Section 125 of Cr.P.C. for maintenance. Applicant also filed FIR No. 0913 of 2021. On the other hand, the Respondent filed a petition for divorce at Family Court, Nashik under Section 13(1)(ia)(ib) bearing Petition no. A-683 of 2021.

3. Learned counsel for the applicant submits that the applicant is unable to travel as she has no source of income and she has not been paid any compensation so far by the respondent-husband. The distance between Nashik to Yavatmal is around 500 kms., which would take 14-15 hours to and fro. On the other hand, the respondent is well placed and would not have any inconvenience to travel. He accordingly submits that the application be made absolute.
4. 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. In view of the above, I am inclined to allow this application and pass the following order;

(i) Application is allowed in terms of prayer clause (b).

(ii) The proceedings and application made in Petition No. A-683 of 2021 pending before Family Court, Nashik be stayed pending transfer; and be transferred to Family Court at Yavatmal.

(iii) The transfer may be effected within a period of four weeks and upon receipt of the papers and proceedings the Family Court, Yavatmal, shall give notice to the parties, preferably within three weeks, to proceed with their respective matters.

(iv) All concerned to act on the authenticated copy of this order.

(KAMAL KHATA, J.)