

Shailaja

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISCELLANEOUS CIVIL APPLICATION NO.389 OF 2022**

Vandana Sushil Metkari	]	
Age: 36 years, Occ: Housewife,	]	
Residing At: At Post Alegaon,	]	
South Solapur, Solapur.	]	Applicant
Vs.		
Sushil Chandrakant Metkari,	]	
Age: 38 years, Occ: Service,	]	
Residing at: Survey No.39,	]	
Shankar Nagar, Ladkat Road,	]	
Keshav Nagar, Near Florida	]	
Mineez,, Pune City, Pune 411 306.	]	Respondent

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Mr. Onkar A. Mane, for Applicant.

Mr. Ankur Pahade a/w Anshuman Asare, for Respondent.

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CORAM : PRITHVIRAJ K. CHAVAN, J.

RESERVED ON : 13th APRIL, 2023.

PRONOUNCED ON: 18th APRIL, 2023.

ORDER:

1. This is an application under Section 24 of the Code of Civil Procedure, 1908 by the petitioner-wife seeking transfer of Marriage Petition bearing PA No.722 of 2021 filed by the respondent-husband from Family Court, Pune to Family Court, Solapur.

2. According to the applicant, she got married with respondent on 21st May, 2009 at Solapur. From the said wedlock, they have an issue who was born in the year 2010. He is now 12 years old.

3. It is submitted that due to the differences, as the applicant was driven out by the respondent by retaining the child with him forcibly, she was forced to take shelter at her maternal house at Solapur from 19th May, 2019.

4. Admittedly, the respondent has filed a Divorce Petition, as above, in the Family Court at Pune. The applicant has duly received the notice on 18th August, 2022.

5. Transfer of Marriage Petition has been sought mainly on the following grounds;

(a) Distance between Solapur and Pune is 270 k.m. It takes 5 to 6 hours to the applicant to travel to Pune;

(b) She is required to spend Rs.5000/- per date towards Advocate fee and travelling expenses;

(c) While returning from Pune, it becomes difficult because she cannot return in the midnight being a lady.

6. Learned Counsel for the applicant submits that the applicant has no independent source of income and that the respondent has not paid a single rupee towards maintenance. As such, for her convenience and in view of her financial crisis, the applicant has prayed for transfer of P.A. No.722 of 2021 from Family Court, Pune to Family Court, Solapur.

7. In reply, the respondent-husband has denied all the averments made in the application and exposed the applicant-wife indicating how she is dis-entitled for seeking a relief of transfer of the petition filed by him. It is stated that the application is sheer abuse of process of law.

8. According to the respondent, the applicant herself, without any reason and any intimation to the respondent, left his house on 18th May, 2019 around 8.00 p.m. She had left their son Sarthak behind. Despite making search with all the acquaintances and

family members, her whereabouts could not be traced. Subsequently, it revealed that a missing complaint had been lodged at Mundhawa Police Station on 19th May, 2021. A copy of the said missing complaint is at "Exhibit B". It is submitted by the learned Counsel for the respondent that the said missing report was lodged by one Shital Eknath Hulge against her husband Eknath Vitthal Hulge. The missing report specifically indicates that Eknath Vitthal Hulge had eloped with Vandana Sushil Metkari (Applicant) who is brother's wife of Shital Eknath Hulge.

9. The learned Counsel for the respondent is, therefore, right in stating about the nature and conduct of the applicant who had left the company of the respondent under the false pretext that she was driven out by the respondent.

10. It is also brought to my notice that the applicant had never attended the Family Court at Pune. That being so, there is no question of spending 5,000/- rupees per date towards Advocate fee, staying overnight at Pune and also non payment of maintenance by the respondent as no such application was moved before the Family Court, Pune. Learned Counsel for the respondent has tendered

extract of case details of the said Petition bearing P.A No.722 of 2021 at "Exhibit C". The case history reveals that from 14th July, 2021 to 13th January, 2023, the matter was adjourned for the purpose of hearing. It appears that the applicant had not attended any single date before the Family Court at Pune which proves that the application is totally false and has been knowingly and mala fide filed in order to get the order of transfer of the petition filed by the respondent from Family Court, Pune to Family Court, Solapur.

11. Learned Counsel for the respondent has also invited my attention to the medical reports of husband who has been suffering from paralysis. Copies of medical certificates are tendered at "Exhibit A colly". M.R.I of his brain conducted at P.H. Diagnostic Centre indicates following conclusion;

"Few small areas of near CSF intensity with peripheral FLAIR hyperintensities in bilateral basal ganglia and left frontal periventricular region with mild ex-vacuo dilatation of frontal horn of left lateral ventricle, suggestive of chronic infarcts.

Mild age-unrelated cerebral atrophy".

12. It would be a punishment for the respondent to travel from Solapur under such critical health condition. On the contrary, the applicant has deliberately made all false and misleading statements in her application. A bare look at the missing report speaks volumes about her conduct. Such conduct of the applicant amounts to abuse of process of law and, therefore, such conduct is strongly deprecated.

13. The application is devoid of merits and it needs to be rejected with exemplary costs. Hence, the application stands rejected with exemplary costs of Rs.2000/- to be deposited by the applicant with District Legal Services Authority, Solapur within four weeks from today.

14. **List the application for compliance on 8th June, 2023.**

[PRITHVIRAJ K. CHAVAN, J.]