

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

MISCELLANEOUS CIVIL APPLICATION NO. 403 OF 2022

Niranjan Sudhir Bhosarekar Thr. POA Sudhir Shripati Bhosarekar v/s. Mrs. Priti Ratnakar Kasarlewar	.. Applicant .. Respondent
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Mr. Kuldeep U. Nikam a/w. Mr. Prasad Avhad for the Applicant.

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CORAM : KAMAL KHATA, J.

DATED : 16TH 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 Domestic Violence Proceeding Bearing Criminal Misc. Application No. 1569 of 2018 filed before the Ld. J.M.F.C., Pune to Family Court, Pune and to be tried with pending Marriage Petition A No. 442 of 2018.

2. The Applicant's case is that his marriage was solemnized under the Special Marriage Act, 1954 on 30th May, 2017 at Pune District. There is no child out of their wedlock. It is stated that the Respondent after completing her Visa formalities reached USA to join cohabitation with the Applicant on 3rd August 2017. The

Applicant could not establish any sexual or mental relationship with the Respondent due to her health issues. The Applicant got all medical check ups of the Respondent done in the USA and provided all necessary medications as advised by the doctors from 14th September 2017 to 22nd December 2017. The Respondent on the other hand refused to accept her health issues and suddenly left for India on 29th December 2019.

3. Learned counsel for the applicant states that respondent-wife filed Criminal Misc. Application No. 1569 of 2018 under Section 12 of the Protection of Women from Domestic Violence Act, 2005 against the Applicant and his parents before J.M.F.C. Pune on 29.03.2018. On the other hand he has filed a Marriage Petition under section 25 (iii) of Special Marriage Act, 1954 bearing No. 442 of 2018 for nullification of marriage against the Respondent before the Family Court Pune. It is submitted that the Applicant's parents have filed an application in the Cr. MA No. 1569 of 2018 challenging the maintainability of the DV Application implicating the parents of the Applicant who had no domestic relations with the Respondent. The Respondent has also filed an Application in PA No. 442 of 2018 for interim maintenance and other expenses which was dismissed for suppression of material facts.

4. Learned counsel for the applicant states that there is a possibility that there can be conflicting verdicts of two different judges trying the proceeding in different courts on the same set of facts and between the same parties. He submitted that this Court by an order dated 2nd February 2023 has taken a view that the proceedings under the DV Act can be transferred to the Family Court to avoid the possibility of conflicting verdicts by two different courts and that with a view to reduce the burden of the court and saving judicial time. He submits that the transfer of this proceeding may not even cause any inconvenience to the wife as she would not travel outside Pune. It is submitted that the petition was duly served to the respondents. The affidavit of service dated 30th November 2022 is filed and on record.

5. None appeared for the Respondent though served.

6. In the light of the pleadings and materials on record and the totality of the facts and circumstances of this case, clubbing the matters would be beneficial to both parties. 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 in terms of prayer clause (a).

7. In view of the above I allow the transfer Application as follows:

- i. The proceedings and application made Criminal M. A. No. 1569 of 2018 pending before the Ld. J.M.F.C., Pune be stayed pending transfer; and be transferred to the Ld. Family Court No.4, Pune at Pune
- ii. The Registry shall forward a copy of this order to the Civil Ld. J.M.F.C., Pune with instructions to forthwith transmit all the records of Criminal M. A. No. 1569 of 2018 between the Respondent and Applicant to the Family Court No.4, Pune at Pune preferably within 4 weeks from the receipt of this order.
- iii. The Family Court No.4, Pune at Pune shall on receipt of the records of Criminal M. A. No. 1569 of 2018, fix a date preferably within 3 weeks and issue notice to the parties for proceeding with the matter.

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

(KAMAL KHATA, J.)