

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

MISCELLANEOUS CIVIL APPLICATION NO. 517 OF 2022

Priti w/o. Pradip Napte. ... Applicant.
v/s.
Pradip S/o. Dyaneshwar Napte. ... Respondent.
...
Mr. Pratik Irpatgire, for the Applicant.

...

CORAM : KAMAL KHATA, J.

DATED : 1ST AUGUST, 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 Marriage Petition (M.P.) No. 79 of 2022 filed by the respondent, which is pending before the Civil Judge Senior Division, District: Washim to Civil Judge Senior Division, Pune.

2. The Applicant's case is that her marriage was solemnized on 15th May, 2015 at Hingloli. They have no issues from the wedlock. The applicant was harassed for dowry. The applicant therefore filed a Criminal Misc. Application No. 258 of 2022 against the respondent under section 12, 18 to 22 of the Protection of Women from Domestic Violence Act, 2005 before the JMFC, Pimpri, Pune on 28th February, 2022. On the other hand, the respondent filed Marriage Petition No. 79 of 2022 for dissolution of the marriage at

the Court of CJSD at Washim on 18th April, 2022.

3. The learned Counsel for the applicant submits that the applicant has studied up to 12th standard. The distance between Washim to Pune is around 450 kms. i.e. around 7 to 8 hours one way. It is submitted that the applicant is apprehending physical abuse when she would travel to Washim and therefore, would require someone to accompany her during her travel to Washim. It is stated that it would be difficult for her to arrange for someone to accompany her each time she has to travel to Washim. It is submitted that she has no independent source of income. It is submitted that interim maintenance though granted by the Court has not been paid to the applicant.

4. This Court on 6th January, 2023 issued notice to the respondent. Office remarks indicate that the respondent is duly served through his father.

5. Despite service, the respondent has failed to appear either personally or through an advocate.

6. 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***¹ and ***N.C.V. Aishwarya v. A. S. Saravana Karthik***

¹ (2001) 10 SCC 41 : AIR 2002 SC 396

Sha² 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.

7. In view of the settled law, I am of the view that the application deserves to be allowed, since it would be difficult for the applicant to arrange for a companion each time she has to travel to Washim. Besides, she has to stay at Washim overnight and may not be able to travel back on the same day. In view of this, the balance of convenience would be in favour of the applicant.

8. I am informed that the respondent is a teacher. The Court at Pune may grant video conferencing facility, if applied for and if physical presence of the respondent is not absolutely necessary.

9. 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.

10. In view of the above, I allow the transfer Application in terms of prayer clause (b) as follows:

- i. The proceedings and application made in Marriage Petition No. 79 of 2022 pending before the Civil Judge Senior Division, Washim be stayed pending transfer; and be transferred to the Civil Judge Senior Division,

Pune.

ii. The Registry shall forward a copy of this order to the Civil Judge Senior Division, Washim, with instructions to forthwith transmit all the records of Marriage Petition No. 79 of 2022 between the Respondent and Applicant to the Civil Judge Senior Division, Pune, preferably within 4 weeks from the receipt of this order.

iii. The Civil Judge Senior Division, Pune shall on receipt of the records of Marriage Petition No. 79 of 2022, fix a date preferably within 3 weeks and issue notice to the parties for proceeding with the matter.

iv. Family Court, Pune may consider granting permission to the respondent to appear in court through video conferencing facility when such application is made to save the respondent from inconvenience and expense if it is feasible and their physical presence is not absolutely necessary.

11. The applicant is permitted E-filing the affidavit of service, if filed on or before 3rd August, 2023.

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

(KAMAL KHATA, J.)