

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

MISC. CIVIL APPLIATION (MCA) NO. 59/2023

Apoorva Ambadas Patil

Vs.

Ambadas Sharad Patil

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders

Kaustubh Kadasne, Advocate for applicant

CORAM : SMT. M.S. JAWALKAR, J.

DATE : 07/06/2023

In spite of service to respondent and even granting opportunity to reply, nobody is present nor represented by respondent. Application is filed for transfer of petition No. A/14/2022 filed by respondent under Section 13(1)(ia), pending before Family Court, Solapur to Principal Judge, Family Court, Nagpur.

2. It is submitted that petitioner is legally wedded wife of respondent. Their marriage was performed on 04/05/2017 at Nagpur. Out of the said wedlock, applicant was blessed with a boy namely Niranjana who is about four and half years old, residing with applicant at Nagpur. Due to inhuman mental and physical torture by the non-applicant

and his parents, she is residing with her son at Nagpur since 2018. She was served with the legal notice on 04/10/2021 by the non-applicant. It is further contention that non-applicant has deliberately instituted the divorce petition at Solapur to harass the applicant. The distance between Solapur to Nagpur is around 686 k.m. by road. It is difficult for her to attend the matter at Solapur along with a child of four and half years. Whereas, there is no difficulty to non-applicant to attend the matter at Nagpur. Even Family Court Nagpur is having jurisdiction to try and decide the petition.

3. The learned Counsel relied on ***Shruti Kaushal Bist Vs. Kaushal R. Bist, (2020) 10 SCC 725***. wherein, it is held that the travel time and the distance also has a role to play in considering the case for transfer, where there is no payment of maintenance. The learned Counsel also relied on ***Sumita Singh Vs. Kumar Sanjay and another, AIR 2002 SCC 396***, wherein, it is held that suit filed by husband against the wife, it is the wife's convenience needs to be looked into. It is submitted by the applicant that she is not having any source of income and being minor child of four and half years, it is difficult for her to attend the Family Court at Solapur. As such, I am satisfied that the proceeding pending before Family Court, Solapur is necessary to be transferred to the Family Court, Nagpur. As such, I proceed to pass the following order:

ORDER

- i) Application is allowed.
- ii) The proceeding bearing Petition No. A/14/2022, pending before the Family Court at Solapur is hereby withdrawn and transferred to Principal Judge, Family Court, Nagpur.
- iii) Learned Principal Judge, Solapur is hereby requested to facilitate transfer as referred above.

Application stands disposed of.

(SMT. M.S. JAWALKAR, J.)