



THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

MISC. CIVIL APPLICATION (TR.) NO. 237 OF 2023

TRUPTI VIKAS NARAYAN

...**VERSUS**...

VIKAS KALYANAM NARAYANAN

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

Court's or Judge's order

Shri/Smt. S.S.Sardha, Advocate for applicant.

Shri R.S.Akbani, Advocate for non-applicant no. 1.

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

DATE : 04th SEPTEMBER, 2023

The present application is filed for transfer of proceedings bearing Cri.M.A. No. 3722/2019 filed U/s. 12 of the Protection of Women from Domestic Violence Act and pending before learned 17th Joint Civil Judge, Senior Division and ACJM, Nagpur to learned 4th Family Court, Nagpur.

2. The present application is filed by the applicant - wife. The applicant is legally wedded wife of the non-applicant no. 1 and their marriage was performed on 31/08/2006 at Nagpur. They were blessed with a child namely Geetali who is in the custody of the applicant. It is the contention of the applicant that she resided at her matrimonial house at Chembur, Mumbai till 17/07/2009. During the period of cohabitation, the non-applicant no. 1 and his family members treated her with a cruelty. The non-applicant no. 1 drove the applicant out of her matrimonial house. Due to ill-treatment and cruelty by the non-applicants, the applicant constrained to reside at her parental house at Nagpur.

3. Be that as it may, without going into the merits of the matter, it would be appropriate to consider the facts that there is proceedings bearing Cri.M.A. No. 3722/2019 filed U/s. 12 of the P.W.D.V. Act pending before the 17th Jt. C.J.S.D. and A.C.J.M., Nagpur filed by the applicant herself. The non-applicant had filed Petition bearing No. A-1983/2020 under Hindu Marriage Act, 1955 for restitution of conjugal rights in the learned Family Court at Bandra (Mumbai) and the same has been transferred to Nagpur and is re-registered as Petition A No. 853/2022 pending before the learned 4th Family Court, Nagpur. The applicant has also filed a Petition under Section 13(1) (i-a) of the Hindu Marriage Act, 1955 for grant of decree of dissolution of marriage before learned 4th Family Court, Nagpur which is registered as Petition No. A 396/2021.

4. In view of the specific provisions, the pending litigation can be transferred to the Family Court where other proceedings are pending. In view thereof, the applicant's prayer for transfer of criminal proceedings under P.W.D.V. Act to the learned Family Court, Nagpur needs to be allowed.

5. Learned counsel for the non-applicant no. 1 vehemently opposed the application on the ground that the order of access is being flouted by the applicant, therefore, he has filed some contempt application (Exh. 49). If the matter is transferred to learned Family Court, Nagpur, the Family Court, Nagpur will take care of other pending applications which can be disposed of as expeditiously as possible by the Family Court. In view thereof, I proceed to pass the following order:-

ORDER

- 1) The application is allowed.
- 2) The present proceedings bearing Cri. M.A. No. 3722/2019 pending before 17th Jt. C.J.S.D. and A.C.J.M., Nagpur is hereby withdrawn and transferred to learned 4th Family Court, Nagpur.
- 3) Learned Principal District and Sessions Judge, Nagpur is hereby requested to facilitate the said transfer.
- 4) Parties to appear before learned Family Court.
- 5) The application stands disposed of.

(Smt. M.S. Jawalkar, J.)

B.T.Khapekar