

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

MISC. CIVIL APPLICATION (TR) NO. 254 OF 2022

Dr. Sonali w/o Satish Ambhore V/s Dr. Satish Rushtamrao Ambhore

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

Court's or Judge's Order

Shri C.R. Sharma, counsel for the applicant.

Shri Jitesh Duhilani, counsel for the non-applicant (appointed)

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 13/02/2023.

1. Heard.
2. By preferring this application, the applicant/wife is seeing transfer of the matrimonial proceeding petition No. A-298/2022, pending before the learned Judge, Family Court No.3 at Pune to the Family Court at Yavatmal.
3. As per contention of the applicant/wife, she is the legally wedded wife of the non-applicant and therefore, their marriage was solemnized on 21.4.2013 at Yavatmal as per the Hindu Rights and Customs. From the said wedlock, she is having son aged about 8 years, who is taking education at Yavatmal.
4. It is further contention of the applicant that, she possesses qualification of the BAMS and Non-applicant is practicing

Doctor. After marriage, she resumed cohabitation at the house of the non-applicant. However, she was not treated well and was subjected for physical and mental cruelty. Therefore, she constrained to leave matrimonial house and she is residing along with her parents. She had filed proceedings under the provisions of the Domestic Violence Act. She had already filed application under the provisions of the Domestic Violence Act. The non-applicant is already attended the said proceedings. The distance between Yavatmal to Pune is more than 580 km.

5. It is the contention of the applicant that, if she constrained to attend the proceedings at Pune, then there is nobody to look-after her son and his educational activities will be affected in her absence. She further submitted that, she has no source of income and she is unable to bear the costs of the litigation.

6. Considering the same, the matrimonial proceedings pending before the Court of learned Judge, Family Court No.3, Pune be transferred to Family Court at Yavatmal.

7. The said application was strongly opposed by the non-applicant on the ground that, the applicant is educated lady and

it is not difficult for her to attend the proceedings. There is no difficulty for the applicant that she can attend the proceedings through Video Conferencing also and therefore, the application deserves to be rejected.

8. Heard learned counsel Shri C.R. Sharma for the applicant/wife and Shri Jitesh Duhilani, who is appointed counsel for the sole-respondent/husband.

9. The learned counsel for the applicant submitted that considering the grounds raised in the application, it is difficult for the applicant/wife to attend the proceedings by leaving behind her son at Yavatmal. There is nobody to look- after her in her absence. Moreover, the distance between the Yavatmal and Pune is more than 580 km. For which, the applicant has to spent entire day to attend the proceedings. In view of that, she prayed for transfer of the proceedings.

10. Learned counsel Jitesh Duhalani for the non-applicant/husband, opposed the same by mentioning that she can attend the proceedings sometimes through Video Conferencing also. Hence, the application deserves to be rejected.

11. Heard both the sides.

12. It is not in dispute that, the distance between Pune and Yavatmal is more than 580 km. It is also not in dispute that the applicant is staying along with her son who is eight years, who needs constant attention. She is residing along with her parents. The son of applicant and non-applicant is taking education at Yavatmal and therefore, the presence of the applicant/wife is required at Yavatmal to look after her.

13. Learned counsel for the applicant/wife place reliance of *N.C.V. Aishwarya vs A.S. Saravana Karthik Sha*¹ has observed thus:

“9. The cardinal principle for exercise of power under Section 24 of the Code of Civil Procedure is that the ends of justice should demand the transfer of the suit, appeal or other proceeding. In matrimonial matters, wherever Courts are called upon to consider the plea of transfer, the Courts have to take into consideration the economic soundness of both the parties, the social strata of the spouses and their behavioural pattern, their standard of life prior to the marriage and subsequent thereto and the circumstances of both the parties in eking out their livelihood and under whose protective umbrella they are seeking their sustenance to life. Given the prevailing socio-economic paradigm in the Indian society, generally, it is the wife’s convenience which must be looked at while considering transfer.”

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14. As noticed above, the applicant is a lady having minor son, it is difficult for her to travel all alone till Pune to attend the proceedings. The non-applicant is already attending the proceedings at Yavatmal. Therefore, it is not difficult for him to attend the another proceedings also. At a time, she can also attend the proceedings through Video Conferencing. Further it would be just and proper to place the proceedings before the same Court to avoid the conflict of the decision. In view of that, the application deserves to be allowed.

Hence, I proceed to pass the following order.

- a) The Misc. Civil Application No.254/2022 deserves to be **allowed**.
- b) The matrimonial proceedings bearing Petition No. A-298/2022 be transferred to the Family Court Yavatmal.
- c) The learned Judge Family Court No.3, Pune is directed to sent the record and proceedings to the learned Judge Family Court, Yavatmal for final disposal.
- d) The learned Judge Family Court, Yavatmal shall consider the request, whenever it is made by the

non-applicant to attend the proceedings through Video Conferencing.

- e) The fees of the learned counsel for the sole-respondent be quantified as per the Rule, as he has appointed counsel.

JUDGE