

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

MISC. CIVIL APPLICATION (TR.) NO.774 OF 2022

Roshani W/o Pankaj Rathod

Vs.

Pankaj s/o Yuvraj Rathod

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

Court's or Judge's orders

Mr. R. S. Khobragade, Advocate for the applicant.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 14/03/2023

1. This application is filed under Section 24 of the Code of Civil Procedure for seeking transfer of Hindu Marriage Petition No.302/2022 filed by the non-applicant before the 4th Joint Civil Judge Senior Division and Additional Chief Judicial Magistrate, Nagpur.

2. The ground raised by the applicant for transfer is that her marriage with the non-applicant was performed and she is having one son of three years from the said wedlock. After marriage, she resumed cohabitation. However, non-applicant has not treated her well and she constrained to leave the matrimonial house. After she left the matrimonial house, she approached to the Mahila Cell at Yavatmal and report was forwarded to Police Station, Ner. On the basis of the said report, Crime was registered against the non-

applicant and the concerned proceeding is pending before the Judicial Magistrate First Class, Ner. She had also initiated the proceeding under the Protection of Women from Domestic Violence Act which is also pending before the Judicial Magistrate First Class, Ner. The distance between the Nagpur and Sindkhed is more than 180 Kms. It is difficult for the applicant to travel all alone with her three years son. Moreover, she is residing at the mercy of her parents and there is nobody to escort her to attend the proceeding. As the non-applicant has not made any provisions for her maintenance, she is unable to bear the cost of the litigation. For all above these grounds, she is seeking transfer of the matrimonial proceeding filed by the non-applicant in the Court of 4th Joint Civil Judge Senior Division and Additional Chief Judicial Magistrate, Nagpur.

3. Notice of the said application though served on the non-applicant. He preferred not to appear and not to contest the application.

4. Heard learned Advocate Mr. R. S. Khobragade for the applicant. He reiterated the said contentions. Admittedly, two proceedings are already pending in the Court of Judicial Magistrate First Class, Ner. The distance between the Nagpur to Sindkhed wherein the applicant is residing is more than 180 Kms. The Non-applicant is already attending the proceedings

at Ner. It is not inconvenient for the non-applicant to attend the proceeding at Yavatmal, if matrimonial proceeding is transfer to Yavatmal. The distance between the Yavatmal to Sindkhed is only 35 Kms. So, applicant can attend the proceeding at Yavatmal. Considering the aspect that, non-applicant has not made any provisions for her maintenance or for her livelihood, she is unable to bear the cost of the litigation. Moreover, it is inconvenient for the applicant to attend the proceeding by travelling all alone with her three years old son. Therefore, taking into consideration convenience of the applicant and as two proceedings are already pending in the Court of Judicial Magistrate First Class, Ner, no prejudice will be caused to the non-applicant to attend the proceeding at Civil Judge Senior Division, Yavatmal.

5. In view of that, application is allowed and I proceed to pass following order.

- (i) Misc. Civil Application is allowed.
- (ii) The Hindu Marriage Petition No.302/2022 pending before the 4th Joint Civil Judge Senior Division and Additional Chief Judicial Magistrate, Nagpur is transferred to Civil Judge Senior Division, Yavatmal for adjudication.

(4)

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- (iii) The 4th Joint Civil Judge Senior Division and Additional Chief Judicial Magistrate, Nagpur shall send the record and proceeding to the Civil Judge Senior Division, Yavatmal.
- (iv) Parties to appear before the Civil Judge Senior Division, Yavatmal on 5th of April 2023.

(URMILA JOSHI-PHALKE, J.)

Sarkate