

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

MISC.CIVIL APPLICATION (TR) NO.825/2022

Kalyani Siddhant Virulkar

..VS..

Siddhant Haridas Virulkar

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

Court's or Judge's Order

.....
Shri R.D.Wakode, Counsel for the Applicant/Wife
Ms Sonal Khobragade, Counsel for the Non-applicant/Husband.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 08/03/2023

1. By this application, the applicant/wife seeks transfer of HMP No.416/2022 pending before learned Joint Civil Judge Senior Division at Wardha to learned Judge of the Family Court at Amravati. The said petition is filed by the non-applicant for restitution of conjugal rights.

2. As per contentions of the applicant wife, her marriage with the non-applicant/husband was solemnized on 8.4.2021. Since the date of marriage, she was residing along with the non-applicant/husband. However, she was not treated well and, therefore, she was constrained to leave her matrimonial house. She had also lodged FIR with Arni Police Station about ill-treatment given to her at the hands of the non-applicant/husband. Thereafter, she filed proceedings before learned Judicial Magistrate First Class at Amravati under the Protection of Women from the Domestic Violence Act and for

monetary relief. The non-applicant/husband is residing at Mumbai and, therefore, it is convenient for the non-applicant/husband to attend proceeding at Amravati. The distance between Wardha and Amravati is 100 kilometers. It is difficult for her to attend proceeding at Wardha by travelling all alone and, therefore, she prays that the proceeding be transferred from Wardha to Amravati.

3. Learned counsel Ms Sonal Khobragade for the non-applicant/husband strongly opposes the application on the ground that the application filed is on baseless ground and it is only to harass the non-applicant/husband.

4. Heard learned counsel Shri R.D.Wakode for the applicant/wife and learned counsel Ms Sonal Khobragade for the non-applicant/husband.

5. Learned counsel Shri R.D.Wakode for the applicant/wife reiterates contentions as raised in the application. He submits that it will be convenient for the non-applicant/husband to attend the proceeding at Amravati to which learned counsel Ms sonal Khobragade has given consent. As the non-applicant/husband is not residing at Wardha and he is residing at Mumbai, it will be convenient for him to attend proceeding at Amravati and no prejudice will be caused to him.

6. It is well settled that convenience of wife has to be

looked into while considering applications for transfer. Recently, the issue of inconvenience has been dealt with by the Honourable Apex Court in the case of NCV Aishwarya vs. A.S.Saravana Karthik Sha in Civil Application No(S). 4894/2022 decided on 18.7.2022 wherein the Honourable Apex observed that 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. When two or more proceedings are pending in different Courts between the same parties which raise common question of fact and law, and when the decisions in the cases are interdependent, it is desirable that they should be tried together by the same Judge so as to avoid multiplicity in trial of the

same issues and conflict of decisions.

7. As noticed above, the application deserves to be allowed. Hence, I pass following order:

ORDER

(1) The Misc. Civil Application is **allowed**.

(2) HMP No.416/2022 pending before learned Joint Civil Judge Senior Division at Wardha be transferred to learned Judge of the Family Court at Amravati.

(3) The parties shall appear before learned Judge of the Family Court at Amravati on 27.3.2023.

With this, the Misc. Civil Application stands **disposed** of.

(URMILA JOSHI-PHALKE, J.)

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