

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

MISC. CIVIL APPLICATION (Tr) NO. 846/2022

Shradha W/O. Pranil Borkar Vs Pranil S/O. Laxman Borkar

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

Court's or Judge's Order

Ms Ragini K. Swami, Advocate for the applicant.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 07/02/2023.

1. Heard.
2. This is an application filed by the applicant for seeking transfer of the matrimonial proceedings bearing Hindu Marriage Petition No. 91/2022 pending in the Court of Civil Judge, Senior Division, Pusad to the Civil Judge, Senior Division, Chandrapur.
3. As per the contention of the applicant, her marriage with the non-applicant was solemnized on 14/05/2019. After the marriage, she resumed cohabitation. However, the non-applicant was addicted to bad vices, like drinking liquor and under the influence of liquor, he used to harass her. Therefore, she constrained to leave matrimonial house and staying at the mercy of her parents at the parental house at Chandrapur. Another ground raised by the applicant is that, non-applicant is threatening and beating under the influence of liquor, therefore her father has

lodged written complaint against the non-applicant. Thus, she is having apprehension of harm to her body as well as to her family members. Her father is old aged person. The distance between Chandrapur and Pusad is more than 250 Kms. There is no direct conveyance available to the applicant to attend the proceedings and she has to take hault overnight.

4. Considering all these grounds, she prayed for transfer of matrimonial proceedings from Pusad to Chandrapur.

5. Notice of the said application is served on the non-applicant. Affidavit of service is filed on record along with the postal acknowledgment, which shows that non-applicant has received the notice of the present application. However, he remained absent and chosen not to contest the claim.

6. Heard learned Advocate Ms Ragini K. Swami for the applicant.

7. Learned advocate for the applicant reiterated the contentions as raised by the applicant. She further submitted that, the non-applicant has not only threatened the applicant, but also threatened the advocate appearing for the applicant before the Lower Court.

8. She further submitted that, considering the apprehension raised by the applicant, the distance between the two places is more than 250 km. The Non-applicant has not made any provision for her maintenance and for

her livelihood. The place of Pusad is most inconvenient, as no direct conveyance is available, therefore, the matrimonial proceedings be transferred from Pusad to Chandrapur.

9. Perused the application. The application is supported with the various complaints filed by the applicant as well as her advocate, alleging that the non-applicant is threatening not only the applicant but the advocate of the applicant also. Thus, apprehension raised by the applicant appears to be reasonable one.

10. Moreover, the distance between the two places is more than 250 km. Limited conveyance is available to the applicant to attend the proceedings and if she has to attend the proceeding, she has to stay overnight and then to return at her home, after attending the proceedings. Thus, it is apparent that the Pusad is most inconvenient place for her.

11. Moreover, the non-applicant has not made any provision for her maintenance and therefore, she is unable to bear the cost of the litigation.

12. The convenience or inconvenience of the wife is recently dealt by the Hon'ble Supreme Court of India in the case of *N.C.V. Aishwarya vs A.S. Saravana Karthik Sha*¹ has held thus :-

“9. The cardinal principle for exercise of power under Section 24 of the Code of Civil Procedure is

1 AIR 2022 SC 4318

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."

13. As noticed above, the applicant is a young lady and limited conveyance is available to her to attend the proceedings, as well as two proceedings are already pending before the Civil Judge, Senior Division, Chandrapur. In view of that, it is just and proper to club all the three cases together to avoid multiplicity of the proceedings and conflict of decision.

14. In view of above, the application deserves to be allowed. Accordingly, I pass the following order:

- a] Misc. Civil Application is allowed.
- b] The proceedings bearing Hindu Marriage Petition No. 91/2022 be transferred to the Civil Judge, Senior Division, Chandrapur.

- c] The parties to appear before the learned Civil Judge, Senior Division, Chandrapur on 03/03/2023.

Misc. Civil Application No. 846/2022
is **disposed of**.

JUDGE