



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

11 CRIMINAL APPLICATION NO. 59 OF 2024

YOURAJ @ PANKAJ S/O GOKUL PAWAR

VERSUS

NAMRATA PANKAJ PAWAR

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Mrs. Reddy Ranjana D, Advocate for Applicant

Mr.Jitendra Vijay Patil, Advocate for the Respondent

CORAM : Y. G. KHOBRADE, J.

Dated : 16th December, 2024

PER COURT :-

1. Heard the learned counsel for the applicant and the learned counsel for the respondent at length.
2. At the outset it is submitted that, soon after arguments are over, this Court gave understanding to the counsel for the applicant that, if it is found that the Petition is vexatious, baseless, it would be dismissed with heavy cost, not less than Rs.10,000/- because of unnecessarily dragging the non-applicant wife to this Court. Thereafter, on request of the learned counsel for the applicant, matter kept back. After receiving instructions, the learned counsel for the applicant mentioned the matter and stated that the applicant is ready to deposit the cost in case the applicant did not succeed in the matter and again argued the matter for considerable period.

3. By the present application, the applicant husband prayed for transfer of maintenance proceeding bearing Petition No.E-64 of 2023 from the file of the learned Family Court, Jalgaon to the learned Family Court, Nashik.

4. The learned counsel appearing for the applicant canvassed in vehemence that, on 13th July, 2021, marriage of between applicant and non applicant solemnized. After marriage, the non applicant wife cohabited with the applicant till 13.05.2022 i.e. for 10 months, however, later on, the non applicant left for her parental house without any cause. So also, during the period of 10 months, the Non-applicant wife was not willing to consummate matrimonial relation due to some gynec problem and since then she is residing at her parental house at Jalgaon. Thereafter, the non-applicant wife has filed a maintenance proceeding under section 125 of the Criminal Procedure Code and a proceedings under the provisions of the Protection of Women from Domestic Violence Act.

5. The learned counsel appearing for the applicant further canvassed that, the applicant appeared before the Family Court at Jalgaon but the relatives of the non applicant wife started making defamatory statements against the applicant in public place. So also, the learned presiding officer of the Family Court,

Jalgaon rejected the application for production of documents filed by the present applicant. Therefore learned Judge of the Family Court, Jalgaon is bias and not impartial while passing the orders dated 04.10.2023 and 04.05.2024. Therefore, the applicant is under apprehension that, he may not get substantial justice at the hands of the learned Judge of the Family Court at Jalgaon, hence, prayed for transfer of Petition No.E-64 of 2023 to the Family Court at Nashik.

6. The learned counsel appearing for the non-applicant strongly resisted the application on ground that, the applicant is permanent resident of Nashik but he is serving as I.T. Engineer at Chennai. The applicant husband had filed divorce petition bearing Petition No.A-309/2023 before the Family Court, Nashik, however, on 25th November, 2025, this Court passed order in Misc. Civil Application No. 78 of 2024 and transferred the said Petition from Family Court Nashik to the Family Court at Jalgaon because the applicant raised no objection for transfer of said proceeding. However, by the present application, the applicant/husband wanted to transfer the maintenance proceeding i.e. Petition No. E-64 of 2023 filed u/s 125 of Cr.P.C. from the file of Family Court, Jalgaon to the Family Court at Nashik with ulterior motive and without any substantial ground, hence prayed for dismissal of the application with heavy cost.

7. Considering the cause set out in the application, I have gone through the record. It is an admitted fact that, on 13.07.2021 the marriage between applicant and non applicant has been solemnized. As on today, the matrimonial relation between the applicant and non-applicant subsists.

8. It is not in dispute that, initially the present Applicant filed a divorce Petition No.A-309/2023 under Section 13(1)(ia)V of the Hindu Marriage Act before the Family Court at Nashik and prayed for decree of divorce. The non applicant wife filed Misc. Civil Application No.78 of 2024 before this Court and prayed for transfer of said Petition No.A-309/2023 from the file of Family Court, Nashik to the Family Court, Jalgaon. On 25th November, 2024, the present applicant, who is non applicant in Misc. Civil Application No.78 of 2024 gave consent for transfer of said proceeding from the file of Family Court, Nashik to the Family Court, Jalgaon. Accordingly, on 25th November, 2024, the co-ordinate bench of this Court passed an order in Misc. Civil Application No. 78 of 2024 and transferred the Petition No.A-309/2023 from the file of Family Court, Nashik to the Family Court, Jalgaon.

9. It is a matter of record that, the present non applicant-wife has filed a Petition No.E-64/2023 under section

125 of the Criminal Procedure Code and prayed for grant of maintenance. However, the present applicant, who raised objection for transfer of matrimonial proceedings from the Family Court, Nashik to the Family Court, Jalgaon, is now seeking for transfer of maintenance proceeding from the file of learned Family Court Jalgaon to Family Court Nashik on ground that, the presiding officer of the Family Court, Jalgaon is bias against him.

10. Section 407 of the Criminal Procedure Code provides that this Court may transfer proceeding from one jurisdiction to another for fair and proper adjudication of the dispute. In case of matrimonial proceedings, convenient of transportation of female Court is required to be considered as per law laid down in **Rajani Kishor Pardeshi Vs. Kishor Babulal Pardesh, (2005) 12 Supreme Court Cases 237.**

11. The present applicant is serving as Engineer in IT department at Chennai and he is not residing at Nashik but he is seeking transfer of the maintenance proceeding from the family Court, Jalgaon to the Family Court, Nashik only on ground that the Presiding Officer of the Family Court, Jalgaon is bias against him, which does not appear to be bonafide and substantive but the ground set out in the application prima facie appears with ulterior motive just to harass the non-applicant.

12. The applicant has made wild allegation of biasness against the Presiding Officer of the Family Court, Jalgaon without bringing any adversary instance, how the Presiding Officer is bias against him. Therefore, it appears that the applicant wanted to prolong the matter and consumed valuable time of the court. As such, it is necessary to reject the present application with cost. Accordingly, present application is hereby dismissed with cost of Rs.10,000/- (Ten thousand), payable to the Non- Applicant wife.

13. The applicant shall deposit the cost amount in this Court on or before 6th January, 2025, failing which said amount would be recovered by the non-applicant being arrears of maintenance amount. After deposit of the said amount, the non applicant is set liberty to withdraw the same.

(Y. G. KHOBRADE, J.)

JPChavan