

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

SATISH
RAMCHANDRA
SANGAR

MISC. CIVIL APPLICATION NO.391 OF 2024

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SATISH RAMCHANDRA
SANGAR

Date: 2024.10.22
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Nishtha Utkarsh Mangalik

Nee Nishtha Sandeep Sareen

Age : Adult, Occupation : Service,

Residing at : K2A-703, Godrej Elements,

Behind Wipro Circle, Hinjewadi,

Pune : 411 057.

Also at:-

C/o. Mr.Sandeep Sarin

Residing at : 15/302, NRI Sea Woods,

Palm Beach Road, Nerul,

Navi Mumbai : 400 706.

...Applicant

(Original Respondent)

Versus

Utkarsh Arvindkumar Mangalik

Age : Adult, Occupation : Service,

Residing at : Janki Rainbows, A1-202,

3rd Floor, Survey No.165, Near Datta

Mandir, Opposite : Primrose Mall,

Baner, Pune : 411 045.

...Respondent

(Original Applicant)

Mr.Anuuj N. Narula i/b. Jhangiani, Narula and Associates:-	Advocates for Applicant.
Mr.Sandesh Shukla a/w Mr.Vivek Patil, Mr.Afsar Ansari, Mr.Deresh Sawant, Mr.Amol thorat i/b. Vivek Patil and Associates:-	Advocates for Respondent.

CORAM : S. M. MODAK, J.

DATE : 18th OCTOBER 2024P. C. :-

1. Heard learned Advocate Shri.Narula for the Applicant-Wife and learned Advocate Shri.Shukla for the Respondent-Husband.
2. The **issue** involved in this transfer Petition is, whether to transfer the Divorce Petition No.796 of 2024 filed by the Husband in the Court of Civil Judge, Senior Division at Pimpri – Pune to the Family Court – Belapur. The **issue** is, *whether the transfer Application needs to be rejected on the basis of the observations in case of **Anindita Das V/s. Srijit Das**¹ and on the basis of observations in case of **Delma Lubna Coelho V/s. Edmond Clint Fernandes**².*
3. Admittedly, this is the only matrimonial Petition pending in between the spouses. The Petitioner-Wife is seeking transfer on account of convenience, so also, on account of threat to her life and limb on the basis of previous incidents.
4. Both the spouses married with each other on 19th September 2015. Both cohabitated together at Pune. They cohabitated together

1 (2006) 9 Supreme Court Cases 197

2 Transfer Petition (C) No.1475 of 2021 : 18th April 2023 : Supreme Court of India

for 8 years. Since 9th September 2023, both are residing separately. Now, the Petitioner-Wife is staying with her parents at Nerul–Navi Mumbai. She is having parents. Her mother is suffering from some ailment. No doubt, she owns a flat in Pune. It is also true that prior to transfer to Navi Mumbai, she was working and posted at Pune. Her flat was trespassed by the Respondent-Husband on 9th February 2024, is the allegation. Through her Advocate’s letter, she has informed the Senior Inspector of Police, NRI Police Station on 30th March 2024 to take an action against the Respondent-Husband and others for ill-treatment. The NRI Police Station registered an offence on 30th June 2024 under Sections 498-A, 406, 323, 504, 506 read with 34 and under Section 109 of Indian Penal Code, 1860 (“IPC”). There are also allegations about the political clout of the husband at Pune.

5. The transfer Application is strongly opposed. It is also opposed for the reason that the Applicant-Wife still owns a flat and earlier, she was working at Pune. It is also opposed on the ground of nearness of the distance in between Pune and Nerul and there are various modes of communication. The allegation of political clout is denied.

6. Mr.Narula relied upon the observations in case of ***Rahul Uttam***

Phadtare V/s. Sarika Rahul Phadtare³. In that case, both the husband and wife, they have prayed for transfer of each others Petition. Both of them tried to point out how the facts are similar and how they are different. Mr.Narula also relied upon the observations in case of ***N.C.V. Aishwarya V/s. A.S. Saravana Karthik Sha***⁴ and more specifically, Para No.9.

7. As against this, Mr.Shukla relied upon the observations in case of ***Anindita Das V/s. Srijit Das***⁵. The Hon'ble Supreme Court has taken a cognizance of increasing trend in filing transfer Applications at the instance of the wives and the lenient approach of the Courts to allow it. In that matter, the request for transfer by the wife was rejected. He also relied upon the observations in case of ***Delma Lubna Coelho V/s. Edmond Clint Fernandes***⁶. The wife was the permanent resident at Canada and she came to India for matrimonial tie. She sought for transfer of matrimonial Petition filed by the husband in the State of Karnataka to Bombay. It was rejected considering the financial status of the wife and considering her residence in Canada.

8. As said above, it is true that the Applicant-Wife owns a flat and

3 Misc. Civil Application No.284 of 2022 : 17th August 2022 : Bombay High Court

4 2022 SCC OnLine SC 1199

5 (2006) 9 Supreme Court Cases 197

6 Transfer Petition (C) No.1475 of 2021 : 18th April 2023 : Supreme Court of India

she was working at Pune. It is also the fact that from the month of September-2024, she is transferred to Mahape. It is also true that there are various modes of transport available from Navi Mumbai to Pune. The issue is, just because she owns a flat and she is having separate earning source and there are modes of transport, whether the request of the wife is to be rejected?

9. There are two aspects involved. One is, the approach of the Court to have a lenient view towards the wife and second is the factual aspect. So, the transfer Application by the wife needs to be considered by keeping that view in mind. When the factual aspects are considered, as said above, she owns a flat at Pune. **Issue is, whether she can be denied a prayer for transfer by assuming that she can stay at Pune and defend that matrimonial Petition? My answer is certainly no.** Because, her parents stay at Nerul. She works at Mahape. She is having allegations of ill-treatment against the husband and there is an incident of house breaking at her flat at Pune. If these factors are considered, then certainly her prayer needs to be accepted. I have not considered the allegation of political clout. So, I am inclined to accept the request. Hence, following order is passed:-

ORDER

- (i) The transfer Application is **allowed** in terms of prayer clause (a).
 - (ii) Hindu Marriage Petition No.796 of 2024 be transferred from the Court of Civil Judge Senior Division, Pimpri – Pune to the Family Court – Belapur.
 - (iii) Both the parties are directed to appear before the Family Court – Belapur on 18th November 2024.
 - (iv) **Let, the matrimonial Court at Pune transfer the Record and Proceeding till that time.**
 - (v) The Family Court at Belapur need not insist upon the presence of the Respondent-Husband except wherein, it is required.
 - (vi) The Respondent-Husband is permitted to appear through Video Conferencing facility if it is available.
10. In view of that, **Application stands disposed of.**
11. All concerned to act on an authenticated copy of this order.

[S. M. MODAK, J.]