



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

MISC. CIVIL APPLICATION [TR] NO. 362 OF 2023

[Komal w/o Khushal Warude .vs. Khushal Dilip Warude]

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

Court's or Judge's orders

Mr. S.U. Bhuyar, Advocate for Applicant,
None for non-applicant though served.

.....
CORAM : M.W. CHANDWANI, J.

DATE : 14/03/2024.

By this application under Section 24 of the Code of Civil Procedure, the applicant seeks transfer of Petition No.A-309/2022 pending on the file of Family Court at Dhule to the Family Court at Buldhana.

2. The contention of the learned counsel for the applicant is that the applicant has lodged a complaint at Police Station Chikhli, District – Buldhana. She also filed Petition No. A-48/2022 under Section 22 of the Special Marriage Act for Restitution of Conjugal Rights before the Family Court at Buldhana. The applicant also preferred an application under Section 125 of the Code of Criminal Procedure vide Petition No. E-18/2022 before the Family Court, Buldhana. On 20.02.2023, the learned Family Court granted interim maintenance of Rs.8,000/- per month to the applicant, but till date, the non-applicant has not paid single pie to the applicant. The applicant also filed application under Section 12 of the Protection of Women

under Domestic Violence Act, vide Misc. Criminal Case No.55/2022.

3. It is submitted that to counter blast, the non-applicant-husband has malafidely filed divorce petition No. A-309/2022 at Dhule for harassing the applicant-wife. The distance between Dhule to Chikhli is about 210 k.m. and requires about 5 hours of travelling. Being a lady, it is not possible for the applicant to attend court proceedings regularly as it requires travelling long distances alone. The applicant has no source of income.

4. Heard the learned counsel for the applicant. Non-applicant is absent though served. I have gone through the record with the help of learned counsel for the applicant.

5. The distance between Dhule to Chikhli is about 210 k.m. It requires about 5 hours journey to reach Dhule. After attending the court proceedings, the applicant has to travel alone to Buldhana late at night. Since her parents are old and she is a lady, it will be inconvenient for her to attend the Court at Dhule. The Apex Court in the case of **N.C.V. Aishwarya .vs. A.S. Saravana Karthik Sha**, in para 9 has observed as under :

9. 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.

6. Considering the present position of the applicant and observations of the Supreme Court in the case of **N.C.V. Aishwarya** (supra), that the wife's convenience is to be looked into while considering the transfer application. In my view, a case is made out for transfer of Petition No. A-309/2022 pending on the file of Family Court at Dhule to Family Court at Buldhana, District-Buldhana. Hence, I pass the following order :

O R D E R

- (i) Petition No.A-309/2022 is ordered to be transferred from Family Court at Dhule to Family Court at Buldhana, District-Buldhana.
- (ii) Non-applicant would be at liberty to appear before the Family Court at Buldhana through video conferencing upon an application made in that behalf to the Family Court at Buldhana.
- (iii) In the aforesaid terms, MCA is allowed and disposed of.

(M.W. Chandwani, J.)