



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

MISC. CIVIL APPLICATION NO. 668 OF 2023

Smt. Snehal Pratik Mitkari

Aged about 31 years,

Occupation-Household,

R/o. Bhamb (Raja), Near

Malkoji Maharaj Mandir,

Tq. & Dist. Yavatmal,

A/P R/o. C/o. Anilkumar Prabhakar

Chawre, Padmavati Niwas, Plot No.2,

Ayodhya Nagar, Malegao Road,

Nanded.

.. Applicant
(Ori. Res. On R.A.)

.. Versus ..

Pratik s/o Pradip Mitkari

Aged about 40 years,

Occupation-Agriculturist,

R/o. Bhamb (Raja),

Near Malkoji Maharaj Mandir,

Tq. & Dist. Yavatmal.

.. Non-Applicant

.....

Mr. Mohammad Sharik, Advocate with Ms. Payal Kaware,
Advocate for Applicant,

Mr. M.H. Bobde, Advocate for Non-Applicant.

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CORAM : M.W. CHANDWANI, J.

DATE : 04/03/2024.

JUDGMENT :

1. Heard. **Admit.**

2. This is an application under Section 24 of the Civil Procedure Code for transfer of the Hindu Marriage Petition (HMP) No. A-122/2021 under Section 9 of the Hindu Marriage Act, 1955 and Petition D-02/2021 under Section 6 of the Hindu Minority and Guardianship Act, 1956, filed by the non-applicant against the applicant from the file of the Family Court at Yavatmal to the Family Court at Nanded.

3. The applicant along with her child is residing with her parents at Nanded. The applicant filed an application bearing Petition No.126/2020 under Section 125 of the Code of Criminal Procedure for maintenance and the same is still pending and an application bearing no.139/2020 under Section 12 of the Protection of Women from Domestic Violence Act, 2005, against the non-applicant before the Court of the Judicial Magistrate First Class, Nanded is decided by the court on 5.10.2023. The non-applicant has filed an application bearing Petition D-02/2021

against the applicant, which is pending on the file of Family Court at Yavatmal and for which transfer is sought.

4. Heard Mr. Mohammad Sharik, learned counsel for the applicant and Mr. M.H. Bobde, learned counsel for the non-applicant and also perused the record.

5. It is contended on behalf of the learned counsel for the applicant that the applicant has no independent source of income and she is at the mercy of her parents. The applicant is not in a position to bear to and fro expenses of her travelling for attending the proceedings of divorce filed by non-applicant against her at Yavatmal. Hence, she seeks transfer of the said applications from the file of the Family Court, Yavatmal to the Family Court Nanded.

6. It appears that the applicant is having a minor daughter aged 12 years. Travelling to Yavatmal, which is more than 190 kms. away from Nanded, for attending the said proceedings will be difficult for the applicant by leaving her minor daughter at home. To attend the proceedings at Yavatmal, the applicant, a lady, is required to travel more than 190 kms

(to and fro). Even otherwise the non-applicant has to visit Nanded to defend the pending proceedings filed by the applicant. Hence, no prejudice will be caused, if the proceedings, filed by the non-applicant against the applicant, are transferred from Yavatmal to Nanded, which is just 190 kms. as Nanded does not have a Court of Civil Judge, Senior Division.

7. In these peculiar circumstances and in view of the ratio laid down by this Court in the case of ***Sangamitra w/o Ramakant Royalwar Vs. Ramakant s/o Gangaram Royalwar [2008 (6) ALL.MR.1]*** and also in view of the recent verdict of the Hon'ble Supreme Court in the case of ***N.C.V. Aishwarya vs. A.S. Saravana Karthik Sha [2022 LiveLaw (SC) 627]***, wherein it has been held that the convenience of the wife must be looked, a case is made out for transferring the said proceedings from Yavatmal to Nanded. Hence, the following order:-

- i) The application is allowed.
- ii) The proceedings bearing HMP No. A-122/2021 and Petition D-02/2021, pending on the file of the Family Court at Yavatmal are transferred to the Family Court at Nanded.

iii) Both the parties are directed to appear before the concerned Family Court at Nanded on 26.03.2024.

(M.W. Chandwani, J.)

Gulande