



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

Civil Application [MCA] No.1047 of 2023

Sou. Suchita @ Sonu Rahul Khandara

vs.

Shri Rahul s/o Babarao Khandare

*Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.*

Court's or Judge's Orders

*Mr. Abhishek A. Zade, Advocate for the Applicant.
None for the Non-Applicant.*

CORAM : M.W. CHANDWANI, J.
DATE : 15th MARCH, 2024.

Heard the learned Counsel appearing for the applicant-wife.
None appears for the non-applicant-husband, though he is duly served.

02] By invoking the jurisdiction of this Court under Section 24 of the Code of Civil Procedure, the applicant seeks transfer of Marriage Petition No.70/2023, pending on the file of the learned Joint Civil Judge Senior Division, Jalgaon to the Court of learned Civil Judge Senior Division, Darwha, District Yavatmal.

03] The applicant is the wife of the non-applicant. Out of said wedlock, they are having a daughter, aged about 2 years. It is contended that the non-applicant is of whimsical character and on very trifling issues, he used to quarrel with the applicant and harass for bringing Rs.5.00 lakhs from her parents. The in-laws of the applicant also used to harass the applicant. Since, the non-applicant dragged her out of the house along with her child, she has no any alternative except to reside at her parental house at Digras, District Yavatmal.

04] The applicant filed application under Section 12 of the Protection of Women from Domestic Violence Act, 2005 and also filed an

application under Section 23 of the Hindu Marriage Act, for grant of maintenance against the non-applicant before the learned Judicial Magistrate First Class, Digras, District Yavatmal, which are still pending. The non-applicant with an intention to harass the applicant filed proceedings under Section 9 of the Hindu Marriage Act, 1955 for restitution of conjugal rights before the learned Joint Civil Judge Senior Division, Jalgaon.

05] It is contended on behalf of the applicant that the applicant has no independent source of income. Due to poor financial position, the parents of the applicant are not in a position to bear to and fro expenses of her travelling for attending the proceedings filed by the non-applicant at Jalgaon. Hence, she seeks transfer of the petition from the Court of learned Civil Judge Senior Division, Jalgaon to the Court of learned Civil Judge Senior Division, Darwha, District Yavatmal.

06] The applicant is having a minor children. They are totally dependent on the parents of the applicant. The applicant as well as the her father is also having some health issues. Travelling to Jalgaon, which is near about 286 kms. away from Digras, will be difficult for the applicant by leaving her minor children. The non-applicant otherwise has to visit Digras to defend the pending proceedings filed by the applicant.

07] 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 at, a case is made out for transferring the proceedings filed by the non-applicant from Jalgaon to Darwha, District Yavatmal. Hence, the following order:

- I. The application is allowed.
- II. Marriage Petition bearing No.70/2023 filed by the non-applicant on the file of the learned Joint Civil Judge Senior Division, Jalgaon is directed to be transferred to the Court of learned Civil Judge Senior Division, Darwaha, District Yavatmal.
- III. Both the parties are directed to appear before the Competent Court at Darwaha, District Yavatmal on 4th April, 2024.
- IV. The application is disposed of accordingly.

JUDGE

**sandesh*