



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

MISC. CIVIL APPLICATION NO. 1149 OF 2023

APPLICANT:

Poonam Amit Kokude,
Aged about 23 years,
Occ - Household,
R/o C/o Akshay Ullasrao Sonule,
Behind Rangnath Swami
Maregaon, Tah - Maregaon,
Dist. Yavatmal.

V E R S U S

RESPONDENT :

Amit Gulabrao Kokude,
Aged about 32 years,
R/o Babupeth Ward No.1.
Behind D.Ed. College Durga
Mandir, Tah - Dist. Chandrapur.

Shri Sanjay S. Rao, Advocate for applicant.

CORAM: M. W. CHANDWANI, J.
DATE : 26/03/2024.

ORAL JUDGMENT :

1. Heard the learned counsel appearing for the applicant-wife. None appears for non-applicant - husband, though he is duly served being a contesting party.

2. By invoking the jurisdiction of this Court under Section 24 of the Code of Civil Procedure, the applicant seeks transfer of petition bearing HMP No.57/2022 pending on the file of the 2nd Civil Judge, Senior Division, Chandrapur to the Court of Civil Judge, Senior Division, Yavatmal.

3. The applicant is wife of the non-applicant. After marriage, the non-applicant started troubling the applicant and drove her out of the house. Since then, the applicant is residing with her uncle and mother. The father of the applicant has expired. The mother of the applicant is working in private service. Therefore, the applicant has no source of income and is dependent on her uncle and mother.

4. The applicant - wife has filed application under Section 125 of the Code of Criminal Procedure for grant of maintenance bearing Misc. Cri. Application No.8/2022 before the Court of JMFC, Ghatanji, Dist. Yavatmal. It is submitted that the applicant has also filed domestic violence case against the non-applicant.

5. The respondent has filed petition under Section 13(1) (i-a) of the Hindu Marriage Act, 1955 bearing HMP No.57/2022 for grant of divorce before the Court of 2nd Civil Judge, Senior Division at Chandrapur.

6. The father of the applicant died. The mother of the applicant is suffering from various aged related problems and there is no male person to accompany the applicant to attend the Court of Chandrapur.

7. In spite of service of notice upon the non-applicant - husband, he chose to remain absent and not to contest the application.

8. The distance between the place of residence of applicant and the Court at Chandrapur is about 130 to 140 kms. There is also no direct train between Chandrapur and Maregaon, Yavatmal. It is a journey of about 4 hours. After attending the matter, the applicant will have to return alone late at night. It would cause inconvenience to the applicant. The non-applicant even otherwise, has to attend the proceedings at Ghatanji, Dist. Yavatmal.

9. 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 non-applicant from Chandrapur to Yavatmal. Hence, the following order:

ORDER

- i] The application is allowed.
- ii] Petition bearing HMP No.57/2022 filed by non-applicant pending on the file of the 2nd Civil Judge, Senior Division, Chandrapur is directed to be transferred to the Competent Court of the Court of Civil Judge, Senior Division, Yavatmal.

iii] Both the parties are directed to appear before the Competent Court of Civil Judge, Senior Division, Yavatmal on 15/04/2024.

10. The application is disposed of accordingly.

[M. W. CHANDWANI, J.]

Choulwar