



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

CRIMINAL APPLICATION (APPLN) NO.97 OF 2024

NIMISH PRADEEP BAPAT & OTHERS

VS

GAYATRI NIMISH BAPAT

WITH

MISC. CIVIL APPLICATION (TR) NO.1180 OF 2023

GAYATRI NIMISH BAPAT

VS

NIMISH PRADEEP BAPAT & OTHERS

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

Court's or Judge's order

.....
Ms (Dr.) Renuka Sirpurkar, Advocate for the husband

Mr. A.A. Dhawas, Advocate for the wife
.....

CORAM : SANDIPKUMAR C. MORE, J.

DATE OF RESERVING THE ORDER : 05.12.2024

DATE OF PRONOUNCEMENT OF THE ORDER : 06.12.2024

- 1) Heard the rival submissions also perused the documens on record. (Parties are referred to as per their marital status.)
- 2) The Criminal Application No.97 of 2024 is filed by the husband for transfer of proceedings filed by the wife under the provision of the Protection of Women from Domestic Violence Act, 2005 from Chandrapur to Nagpur. On the contrary, the wife has filed Misc. Civil Application No.1180 of 2023 for transfer of Petition No.A-595 of 2023 filed by the husband in Family Court, Nagpur for nullity of marriage, to the Court of Civil Judge Senior Division, Chandrapur.
- 3) The learned counsel for the husband vehemently argued

that the wife was initially residing at Nagpur only, but their marriage was solemnized at Badoda, Gujrat. However, now she has falsely claimed that she is residing with her sister Pornima at Chandrapur and therefore, for harassing the husband, she has filed the application for transfer the petition. She also relied on the following judgments:

- i) *Snehalatha Vs. S. Ramakrishna Reddy*, reported in (2001) SCC OnLine AP 888 (High Court of Kerala) ; and
 - ii) *Meria Joseph Vs. Anoop S. Ponnattu*, reported in 2022 SCC OnLine Ker 3993 (High Court of Andhra Pradesh).
- 4) On the contrary, the learned counsel for the wife, opposes the submissions made on behalf of the husband. He also claimed that though the wife was initially residing at Nagpur, but she has shifted to Chandrapur along with her father and she is residing with her sister Pornima. He pointed out that even the suit summons in respect of the petition filed by the husband was served upon the wife at Chandrapur only. He pointed out that while considering the transfer application, the convenience of wife is to be seen ahead of the convenience of husband.
- 5) On going through the documents on record, it is evident that the suit summons in respect of the above filed by the husband at Nagpur was served at Chandrapur and that too on the alternate address of wife given by the husband himself. It is

already settled that in transfer cases, the convenience of wife is to be seen in respect of the petition filed by the husband. The same is observed by the Hon'ble Apex Court in the case of *Sumita Singh Vs. Kumar Sanjay and another* reported in (2001) 10 SCC 41, relied upon by the learned counsel for the wife.

6) The learned counsel for the husband relied upon the judgment of the High Court of Kerala in the case of *Meria Joseph Vs. Anoop S. Ponnattu* (supra), wherein, it is held that temporary resident cannot be a ground for transfer. She claimed that the wife is temporary residing at Chandrapur only to harass her husband. Further she also relied on the judgment of the Andhra Pradesh High Court in the case of *Snehalatha* (supra), discussing the jurisdiction of the matrimonial dispute between husband and wife.

7) Even if the petition filed by the husband is transferred to Chandrapur, then also there cannot be any jurisdictional issue, since the wife is residing at Chandrapur. Moreover, it is also evident that irrespective of petition filed for quashing by the husband an FIR is lodged against him at Chandrapur by the wife. Further, the husband has already appeared in the proceedings under the PWDV Act filed by the wife at Chandrapur.

8) Therefore, considering the convenience of wife as observed by the Hon'ble Apex Court in the case of *Sumita Singh* (Supra), the Criminal Application filed by the husband

needs to be rejected and the Misc. Civil Application filed by the wife needs to be allowed.

9) As such, the Criminal Application (APPLN) No.97/2024 stands **rejected** and Misc. Civil Application (Tr) No.1180/2023 stands **allowed** and the Petition No.A-595 of 2023 filed by the husband against the wife, which is pending on the file of learned Judge, Family Court No.3, Nagpur, is hereby transferred to the Court of Civil Judge Senior Division, Chandrapur.

10) The parties are directed to appear before the concerned Civil Judge Senior Division, Chandrapur, on or before 02.01.2025.

11) Both the applications are accordingly, disposed of.

SANDIPKUMAR C. MORE, J.