



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

MISC. CIVIL APPLICATION NO. 97 OF 2024

Sau. Mayuri W/o. Prakash Kamble,
Aged about 24 years, Occ. Household,
R/o. C/o. Ashok Narnavare,
R/o. New Been Bhanegaon, Ward No. 1,
Post Khaparkheda, Tah. Saoner, Dist. Nagpur.

... APPLICANT

// VERSUS //

Shri Prakash S/o. Ramesh Kamble,
Aged about 33 years, Occ. Service,
R/o. Triratna Society, New Sumthana Ward,
Bhadrawati, Tah. Bhadrawati,
Dist. Chandrapur.

... NON-APPLICANT

Shri P. J. Mehta, Advocate for applicant.
Shri P. R. Karekar, Advocate for non-applicant.

CORAM :- M. W. CHANDWANI, J.

DATED :- 16.04.2024

ORAL JUDGMENT :-

Heard.

2. **Admit.** By consent of the learned counsel for the parties,
the matter is heard finally.

3. This is an application under Section 24 of the Civil
Procedure Code for transfer of Hindu Marriage Petition No. 136/2023,
filed by the non-applicant against the applicant, from the file of the

Civil Judge Senior Division (CJSD), Warora, District Chandrapur to the CJSD, Saoner, District Nagpur.

4. The brief facts, for adjudication of the matter, are as under:-

Due to harassment meted out by the non-applicant and his family members, the applicant is residing with her parents at Bhanegaon, Tah. Saoner, District Nagpur. She has filed a complaint under the provisions of the Protection Of Women From Domestic Violence Act, 2005 before the learned Judicial Magistrate First Class (JMFC), Saoner against the non-applicant, which is pending for adjudication. The non-applicant has filed a Petition bearing No. 136/2023, which is pending on the file of the CJSD, Warora, District Chandrapur. The applicant has sought transfer of the said petition from the CJSD, Warora to the file of the CJSD, Saoner.

5. Heard Shri P. J. Mehta, learned counsel for the applicant, Shri P. R. Karekar, learned counsel for the non-applicant and also perused the record.

6. It is contended on behalf of the learned counsel for the applicant that the applicant has no independent source of income and she is living at the mercy of her parents. The applicant is not in a

position to bear to and fro expenses of her traveling for attending the proceedings filed by the non-applicant against her at the CJSD, Warora. Hence, she seeks transfer of the said petition from the CJSD, Warora to the CJSD, Saoner.

7. It is seen from the record that the applicant is living with her parents. The applicant has to travel to Warora, which is more than 130 kms. away from Bhanegaon. After the matter is over, she has to return to Bhanegaon late in the evening and is required to incurred expense for traveling to and fro from Bhanegaon to Warora to attend the said proceeding. Also, the applicant has filed proceedings bearing PWDVA No. 337/2022 at the JMFC, Saoner, in which the non-applicant used to appear. Hence, no prejudice will be caused if the proceeding, filed by the non-applicant against the applicant, is transferred from Warora to Saoner.

8. In the recent verdict of the Hon'ble Supreme Court in the case of *N.C.V. Aishwarya Vs. A.S. Saravana Karthik Sha*¹, it has been held that the convenience of the wife must be looked. Even, the non-applicant may attend the proceedings before the CJSD, Saoner through video conferencing, if the said facility is available and upon application made in this behalf to the said Court on the date where his

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physical presence is not required. Hence, a case is made out for transferring the said proceedings from the CJSD, Warora to the CJSD, Saoner. Hence, the following order:-

- i) The application is allowed.
- ii) The petition bearing HMP no. 136/2023, pending on the file of the CJSD, Warora is transferred to the CJSD, Saoner.
- iii) If there is video conferencing facility available with the CJSD, Saoner then any application filed by the non-applicant, for appearing in the proceeding through Video Conferencing shall be taken into consideration, unless personal presence of the non-applicant is required in the matter.

(M. W. CHANDWANI, J.)