

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 55 OF 2025

Rakhi Sitaram Pawara
C/o Appa Singh Paware,
Aged: 31 years, Occ: Household,
R/o 52, Tirupati Nagar, Devpur
Tq. and Dist. Dhule.

..Applicant

Versus

Sitaram Vijay Pawara
Aged: 36 years, Occ: Service,
R/o CPWD Quarter No. 112,
Type III, block -2, Seninary Hill,
Nagpur. Tq and Dist. Nagpur

..Respondent

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Advocate for Applicant : Mr. A.T. Jagtap
Advocate for Respondent : Mr. Neelam A. Biala

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CORAM : S. G. CHAPALGAONKAR, J.

RESERVED ON : JULY 01, 2025

PRONOUNCED ON : AUGUST 13, 2025

ORDER :-

1. Present application is filed under Section 407 of Criminal Procedure Code seeking transfer of Criminal Misc. Application No.61 of 2022 pending before Family Court at Nagpur to Family Court at Dhule.
2. Mr. A.T. Jagtap, learned advocate appearing for applicant submits that applicant married with respondent/husband in the year 2011. However, they got separated through decree of dissolution of marriage by mutual consent. Respondent/husband has filed R.D. No.89 of 2022 and MANRJE No.05 of 2023 before Family Court at Nagpur. Similarly, the respondent/husband has filed Criminal Misc.

Application No.61 of 2022 under Section 340 (1) r/w Section 195 (B) of Criminal Procedure Code, 1973 before learned Family Court at Nagpur. The respondent alleges that applicant is guilty of manipulation of record and accordingly seeks to initiate legal proceeding under Section 340 (1) r/w 195 (B) of Criminal Procedure Code. According to Mr. Jagtap, aforesaid proceeding is initiated only with an intention to harass the applicant. The applicant is residing along with her parents at Deopur, District Dhule. The proceeding is initiated by respondent at Nagpur. The distance between Deopur to Nagpur is almost 600 kms and being a lady, it would be difficult for applicant to travel to Nagpur and attend the proceeding instituted by husband. He would therefore urge to transfer the aforesaid proceeding to Family Court at Dhule.

3. Ms. Neelam A. Biala, learned advocate appearing for respondent strenuously opposed the application and submits that matrimonial disputes between the parties were filed and decided at Nagpur. The applicant participated in all such proceedings. Further looking to the nature of dispute, it is desirable that the learned Family Court at Nagpur proceeds further and dispose of both the proceedings.

4. Having considered submissions advanced, it can be observed that applicant and respondent had filed proceedings for divorce by mutual consent and same has been disposed of vide order

dated 19.09.2019. While disposing of the proceeding of divorce, directions are given as regards to permanent custody of minor son namely Dhruv. Although initial custody was kept with applicant/mother, terms were revised. The MANRJE No.05 of 2023 is filed by respondent/husband under Section 152 and 153 of Civil Procedure Code seeking correction in judgment and decree (Exhibit 10 and 11) with a prayer for rectification of judgment and decree particularly clauses regarding custody of minor.

5. It is therefore apparent that the matrimonial dispute between the parties have been dealt with and decided by Family Court at Nagpur. Even some proceedings were instituted before the High Court, Bench at Nagpur. The applicant has attended all such proceedings without any difficulty. She has never sought transfer of such proceedings. It is true that applicant/wife has instituted PWDVA No.429 of 2022 after decree of dissolution of marriage passed by mutual consent before learned Judicial Magistrate First Class, Dhule. However, that itself cannot be a ground to entertain the prayer for transfer.

6. Although it is trite that in matrimonial disputes, convenience of wife has to be given precedence, in facts of present case, when main proceedings are already entertained and decided by Family Court at Nagpur and applicant/wife has participated in such proceedings, application for initiation of criminal proceeding or action

(4)

under Section 340 of Criminal Procedure Code need not be transferred to Dhule.

7. In result, the application stands rejected.

(S.G. CHAPALGAONKAR, J.)