



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISC. CIVIL APPLICATION NO.303 OF 2024**

Rachna Jay Yashwante	...	Applicant
versus		
Jay Dipak Yashwante	...	Respondent

Mr. Paras Yadav, for Applicant.
Mr. Mohit R. Malpani, for Respondent.

CORAM: N.J.JAMADAR, J.

DATE : 4 APRIL 2025

P.C.

1. Heard the learned Counsel for the parties.
2. This is an application for transfer of Marriage Petition No.62 of 2023 filed by the Respondent before the Family Court at Jalna to the Family Court at Kolhapur.
3. The marriage of the applicant was solemnized with the Respondent on 12 June 2020. In the wake of the marital discord, the applicant was constrained to take shelter at her parental home at Kolhapur. The Respondent has filed a Petition No.62 of 2023 for dissolution of marriage before the Family Court at Jalna. The applicant, on her part, has filed proceedings under the Protection of Women from Domestic Violence Act, 2005 being PWDVA No.93 of 2023 before the JMFC, at Kolhapur. The applicant has filed this application on the ground that she is residing with her mother at Kolhapur and it is extremely difficult for her to attend the

proceedings at Jalna.

4. Learned Counsel for the Respondent opposed the prayer for transfer. However, learned Counsel submitted, in the event the proceeding is transferred to Kolhapur, the hearing of Marriage Petition No.62 of 2023 be expedited and the Respondent be granted liberty to appear through videoconferencing.

5. I have perused the averments in the application. Indisputably, the applicant is residing at Kolhapur along with her mother. There are averments in the application that the application does not have logistical and financial support to effectively defend the proceedings at Jalna. The distance between Kolhapur and Jalna is prohibitive.

6. It is well recognized that in the matter of transfer of matrimonial proceedings, ordinarily, it is the convenience of the wife which commands preference. A useful reference, in this context, can be made to the decision of the Supreme Court in the case of N.C.V. Aishwarya Vs A.S. Saravana Karthik Sha¹ wherein the principles which govern the exercise of power under Section 24 of the Code, especially in the matters arising out of matrimonial proceedings, were expounded by the Supreme Court in the following terms :

“9. The cardinal principle for exercise of power under Section 24 of the Code of Civil Procedure is that the ends of justice should demand the transfer of the suit, appeal or other

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proceeding. In matrimonial matters, wherever Courts are called upon to consider the plea of transfer, the Courts have to take into consideration the economic soundness of both the parties, the social strata of the spouses and their behavioural pattern, their standard of life prior to the marriage and subsequent thereto and the circumstances of both the parties in eking out their livelihood and under whose protective umbrella they are seeking their sustenance to life. Given the prevailing socio-economic paradigm in the Indian society, generally, it is the wife's convenience which must be looked at while considering transfer.

10. Further, when two or more proceedings are pending in different Courts between the same parties which raise common question of fact and law, and when the decisions in the cases are interdependent, it is desirable that they should be tried together by the same Judge so as to avoid multiplicity in trial of the same issues and conflict of decisions.”

7. The aforesaid pronouncement govern the facts of the case at hand. The element of inconvenience to the Respondent can be mitigated by granting liberty to the Respondent to appear before the Family Court at Kolhapur through Videoconferencing.

8. Hence, the following order :

ORDER

(i) The Application stands allowed.

(ii) Marriage Petition No.A-62 of 2023 stands transferred from the Family Court, Jalna to the Family Court at Kolhapur, for hearing and disposal in accordance with law.

(iii) The learned Judge, Family Court, Jalna shall transfer the record and proceedings in Petition No.A-62 of 2023 with such dispatch that it reaches the Family Court at Kolhapur, within a period of four weeks from the date of communication of this order.

(iv) The Respondent is at liberty to appear before the Family Court at Kolhapur through Videoconferencing. However, whenever the learned Judge, Family Court, Kolhapur, consider it appropriate and directs the Respondent to appear in person, the Respondent shall appear before the Family Court at Kolhapur.

(v) The parties shall appear before the Learned Judge, Family Court at Kolhapur on 30 April 2025.

(vi) Learned Judge, Family Court is requested to hear and decide Marriage Petition No.A-62 of 2023 as expeditiously as possible and preferably within a period of nine months from the date of appearance of the parties.

(vii) The Courts at Kolhapur shall post Marriage Petition as well as the proceedings under the DV Act, 2005 on the same day, as far as possible.

(ix) No costs.

(N.J.JAMADAR, J.)