



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO. 30/2025

ANGAD AMARJEET BHATTY

..APPLICANT

VS

SANAYA BANATWALA

..RESPONDENT

Adv. V. M. Siram a/w. Adv. S. S. Jain i/b. Adv. A. K. Tipnis for
applicant.

Adv. Gayatri Gokhale a/w. Adv. Zainba Abdi for respondent.

CORAM : RAJESH S. PATIL, J.

DATE : 6 OCTOBER 2025.

P.C. :

1) This application has been filed by the applicant, husband of the respondent, seeking transfer of Domestic Violence proceedings filed by the respondent-wife pending before the Judicial Magistrate First Class (Court No.9) to the Family Court at Bandra, Mumbai.

2) Admittedly, as of today, there are three proceedings pending before the Judicial Magistrate First Class (Court No.9) filed by the respondent-wife viz.

(a) A criminal complaint filed under Section 498-A of the Indian Penal Code wherein the charge-sheet has already been filed before

the Judicial Magistrate First Class (Court No.12), Bandra, Mumbai ;

(b) The Perjury Application is pending before the Judicial Magistrate First Class (Court No.9), Bandra, Mumbai; and

(c) The Domestic Violence proceedings filed by the respondent-wife pending before the Judicial Magistrate First Class (Court No.9), Bandra, Mumbai.

2.1) The applicant-husband has also filed the divorce proceedings before the Family Court at Bandra, Mumbai.

3) The husband's only reason seeking for transfer of one proceeding (Domestic Violence proceeding) out of three proceedings filed by the respondent-wife is that, there should not be conflicting judgments and that the proceedings are at initial stage.

4) Considering the law laid down by the Supreme Court in the case of *N.C.V. Aishwarya Versus A.S. Saravana Karthik Sha*, reported in *2022 SCC OnLine SC 1199*, wherein the Supreme Court states that it is the convenience of the wife which has to be taken into consideration while dealing with the transfer proceeding. Paragraph 9 of the said decision reads as under:-

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 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.

(Emphasis supplied)

5) In the case of *Jyoti Abhijeet Kandage vs. Abhijeet Narayan Kandage (Misc. Civil Application No.239 of 2024)*, I have considered all the provisions as far as transfer proceedings are concerned. In paragraph No.15 and 15.2, it has been held as under :-

“15) Considering the Sections of D.V. Act, and the Judgments discussed in the above paragraphs, it becomes evident that Family Court has power to decide complaint which seeks relief under Sections 18 to 22 of the D.V. Act. Hence in my opinion, transfer of proceedings from Magistrate's Court to Family Court pertaining to relief claimed under Section 18 to 22 of the D.V. Act can be allowed. However, if a transfer proceedings is not a bonafide one, then on merits such a transfer on case to case basis can be rejected. One has to also keep in mind the stage of the proceedings of which transfer is sought.

15.2) So also, one has to also keep in mind who is coming to the court for the transfer of the proceedings, whether it is the Wife or the Husband or any other party. Since a choice is given to the aggrieved person under the D.V. Act to choose the forum for reliefs sought under Section 18 to 22, (i.e.) before the Magistrate under Section 12 or to the civil court, family court or criminal court under Section 26, such transfer if sought by a Wife, considering the judgment of the Supreme Court in the case of N.C.V. Aishwarya (supra) will have to be considered favourably.”

6) Even if it is presumed that the Domestic Violence proceedings are transferred from the Judicial Magistrate First Class (Court No.9) to the Family Court at Bandra, Mumbai, even then two more

proceedings filed by the respondent, wife will have to be heard only by the Judicial Magistrate First Class. Hence, the argument of conflicting judgments being passed is without merits. Therefore, in my view, it is only the respondent-wife, who has the choice for selecting Forum to file the domestic violence proceedings. I find no merits in the present application.

6.1) This matter was argued before me atleast on three different dates, for a considerable period of time. The learned counsel for the respondent pointed out the proceedings of perjury pending against the applicant before the Judicial Magistrate First Class, for making false and fabricated statements, and pressed for imposing cost on the applicant for wasting judicial time when lots of litigants are waiting for their turn.

7) Hence, **the Misc. Civil Application stands rejected** with cost of Rs.1,00,000/- to be paid by applicant-husband to respondent-wife within four weeks.

8) All concerned to act on an authenticated copy of this order.

(Rajesh S. Patil, J.)