



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISC. CIVIL APPLICATION NO.65 OF 2024**

Ujwala Shridhar Kengar	...	Applicant
versus		
Shreedhar Shivaji Kengar	...	Respondent

Mr. Sagar Sonawane, with Mr. Umesh Pawar, for Applicant.
Mr. Sujay Gangal, 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.A-915 of 2020 from the Family Court at Pune to the Civil Judge, Sr. Division, Islampur, Sangli.
3. The marriage of the applicant was solemnized with the Respondent on 11 July 2019. It appears that the marital discord afflicted the applicant and Respondent soon, and the applicant lodged a report leading to registration of C.R.No.299 of 2020 against the Respondent and his relatives for the offences punishable under Sections 498-A, 323, 506 read with 34 of the Indian Penal Code, 1860. The Respondent, in turn, filed a Petition for dissolution of marriage under Section 13(1)(ia) of the Hindu Marriage Act, 1955, being Petition No.A-915 of 2020 before the Family Court at Pune. The applicant has also filed a proceeding under the Protection of Women from Domestic

Violence Act, 2005 before the Learned Magistrate at Islampur being Criminal Misc. Application No.485 of 2020. The applicant has preferred this application seeking transfer of Marriage Petition as the applicant would suffer extreme inconvenience and hardship if the said proceeding is tried before the Family Court at Pune.

4. The Respondent has resisted the application by filing an affidavit in reply.

5. Learned Counsel for the Respondent invited attention of the Court to an order dated 19 April 2022 passed by the learned Judge, Family Court at Pune, on an application preferred by the applicant in Marriage Petition No.915 of 2020 seeking travel and other expenses for attending the proceedings before the Family Court at Pune. By the said order, the Respondent has been directed to pay the actual expenses of travel and an additional amount of Rs.1,000/- for each day of appearance before the Family Court. It was submitted that the Respondent has been complying with the said directions. The matter before the Family Court is at the stage of recording of the cross-examination of the Respondent. Therefore, there is no propriety in transferring the proceeding to the Court of Civil Judge, Sr. Division at Islampur.

6. Learned Counsel for the Applicant joined the issue by submitting that initially family members of the applicant were accompanying her to Pune.

However, after passage of time, it has become extremely difficult for her to attend the proceedings at Pune.

7. Incontrovertibly, the applicant is residing at Aashta, Tal Walwa, Dist. Sangli. The distance between the place of residence of the applicant and Pune is more than 200 kms. It does not appear that the applicant has financial and logistical support to effectively defend the proceeding before the Family Court at Pune. A proceeding filed by the applicant is subjudice before the Court of Magistrate at Islampur.

8. It is trite, 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 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

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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.”

9. All the factors which tilt the scale of convenience in favour of the wife are manifest in the facts of the case at hand.

10. The submission on behalf of the Respondent that since the applicant herself had sought travel and other expenses to attend the proceeding before the Family Court at Pune, she cannot now seek transfer of the proceeding, does not merit acceptance unreservedly. The fact that the applicant had sought an order of payment of travel and other expenses does not imply that the said forum is a forum of convenience to her.

11. In the totality of the circumstances, it appears that the applicant would suffer relatively greater inconvenience and hardship, if the Marriage Petition is tried before the Family Court at Pune. I am, therefore, inclined to exercise the discretion in favour of the applicant.

12. Hence, the following order :

ORDER

(i) Application stands allowed.

(ii) Marriage Petition No.915 of 2020 stands transferred from the Family Court, Pune to the Civil Judge, Sr. Division at Islampur, Sangli for hearing and disposal in accordance with law.

(iii) The learned Judge, Family Court, Pune shall transfer the record and proceedings in Marriage Petition No.915 of 2020 with such dispatch that it reaches Civil Judge, Sr. Division, Islampur, within a period of four weeks from the date of communication of this order.

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

(v) Learned Civil Judge, Sr. Division, Islampur is also requested to make an endeavour to conclude the proceedings in Marriage Petition No.915 of 2020 as expeditiously as possible.

(vi) No costs.

(N.J.JAMADAR, J.)