

Santosh

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

MISC. CIVIL APPLICATION NO. 242 OF 2024

Sushma Pravin Narsale

...Applicant

Versus

Pravin Babasaheb Narsale

...Respondent

WITH

INTERIM APPLICATION NO. 13842 OF 2024

Mr. Mohit Dalvi, a/w Rakesh Bhatkar and Smita Samel, for
the Applicant.

Mr. Pravin Narsale, Respondent-in-person, present.

CORAM: N. J. JAMADAR, J.

DATED : 3rd JANUARY, 2025

ORDER:-

1. The applicant – wife has preferred this application seeking transfer of Marriage Petition No.55 of 2024 pending on the file of the learned Joint Civil Judge, Senior Division at Vasai, District Palghar, to the Family Court at Pune.

2. The marriage of the applicant with the respondent was solemnized on 27th February, 2021 at village Nirgude (Bejvaat), Taluka Junnar, District Pune, in accordance with the Hindu rites and rituals. The applicant and respondent both are Advocates by profession.

3. It appears discord struck the marital life of the applicant and respondent. The applicant started to reside at Pune. The

respondent has filed a petition for a decree of nullity of marriage under Section 12(1)(c) of the Hindu Marriage Act, 1955, being Marriage Petition No.55 of 2024, in the Court of Civil Judge, Senior Division at Vasai, District Palghar.

4. The applicant has preferred this application asserting *inter alia* that the applicant's parents have passed away. She has been rendered a destitute. The distance between Vasai and Pune is prohibitive. The applicant has no means to attend the proceedings at Vasai and effectively defend the same. The continuation of the proceedings at Vasai would thus cause extreme inconvenience and grave hardship to the applicant.

5. The respondent has resisted the application by filing an affidavit-in-reply. The substance of resistance put-forth by the respondent is that the Court at Vasai is a Court of competent jurisdiction. The applicant has failed to make out any justifiable ground for transfer of the proceedings from the Civil Court at Vasai to the Family Court at Pune. The applicant has already engaged an Advocate to represent her in the said proceeding, and, herself being a qualified legal professional, can effectively defend the said proceedings. The applicant's residence at Pune is a matter of her own choice. Thus, that does not constitute a sustainable ground for the transfer of the case. The instant

application has been preferred with a view to delay the disposal of the proceedings before the Civil Court at Vasai and is a link in the chain of actions resorted to by the applicant to wreak vengeance and bring the respondent to terms.

6. I have heard Mr. Dalvi, the learned Counsel for the applicant, and Mr. Narsale, the respondent-in-person, at some length.

7. In addition to the ground for inconvenience and hardship, Mr. Dalvi, the learned Counsel for the applicant, submitted that there is a serious threat to the life and safety of the applicant if the proceedings are continued in the Court at Vasai. The respondent – husband has given threats of dire consequences if the applicant did not accede to the demand of the respondent to dissolve the marriage by mutual consent. The learned Counsel also submitted that on account of the threats given by the respondent – husband, the applicant was constrained to lodge report being FIR No.139/2024 at Vishrambag Police Station, Pune City. Attention of the Court was invited to the averments in the marriage petition which, according to Mr. Dalvi, are *per se* defamatory.

8. Mr. Narsale, the respondent-in-person, vehemently opposed the prayer of transfer. It was submitted that the

applicant has already engaged an Advocate and can, therefore, effectively participate in the proceedings before the Civil Court at Vasai. The FIR was lodged by the applicant to harass the respondent and to bolster up a false ground for transfer. Mr. Narsale submitted that there are sufficient means of transport available to travel to Vasai from Pune. In the event the proceedings are transferred, the respondent would be put to greater hardship.

9. To being with, it is necessary to note that with a view to explore the possibility of an amicable resolution of the dispute, the parties were referred mediation. However, the learned Mediator has submitted a failure report.

10. The fact that the applicant is residing at Pune was not seriously contested by the respondent. It was, however, urged that the applicant has taken residence at Pune out of her own choice. Evidently, the applicant has been residing separately since the year 2021. The applicant is practicing law at Pune. Parents of the applicant have passed away. The applicant has placed on record a copy of Leave and Licence Agreement to substantiate her claim that she is residing alone at Pune.

11. It is true, the applicant is an Advocate by profession. However, this does not necessarily imply that the applicant

would not be put to inconvenience and expenses in attending the proceedings at Vasai. *Prima facie* it appears that the applicant does not have the protective umbrella of her parents and near relatives. Continuation of the proceedings at Vasai has the propensity to cause further inconvenience and physical and financial hardship to the applicant.

12. The submission of Mr. Narsale that the transfer of the proceedings to the Family Court at Pune would put him to inconvenience and expenses, does not merit countenance. Ordinarily, the wife's inconvenience commands precedence in the matter of the transfer of the matrimonial proceedings. A useful reference, in this context, can be made to a decision of the Supreme Court in the case of *N.C.V. Aishwarya vs. A. S. Saravana Kartihk Sha*¹, wherein the factors which should weigh in, in deciding the prayer for transfer of the proceedings in matrimonial disputes, were succinctly enunciated 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,

1 2022 SCC Online SC 1199.

generally, it is the wife's convenience which must be looked at while considering transfer."

13. *Prima facie*, it appears the aforesaid relevant factors obtain in the facts of the case at hand as well. The applicant, as noted above, does not seem to have the family support and means to attend the proceedings at Vasai. The applicant would suffer inconvenience and prejudice if the petition is heard at the Civil Court, Vasai. It would thus be expedient in the interest of justice to transfer the marriage petition from the file of Civil Court at Vasai to the Family Court at Pune.

14. I am, therefore, inclined to allow the application.

15. Hence, the following order:

: O R D E R :

- (i) The application stands allowed in terms of prayer clause (a).
- (ii) Marriage Petition No.55 of 2024 pending on the file of the learned Civil Judge, Senior Division at Vasai, District Palghar, stands transferred to the Family Court at Pune, for hearing and disposal in accordance with law.
- (iii) The learned Civil Judge at Vasai shall transfer the record and proceedings in Marriage Petition No.55 of 2024 to the

Family Court at Pune within a period of four weeks from the date of communication of this order.

- (iv) Application stands disposed.
- (v) In view of disposal of the application, IA/13842/2024 also stands disposed.

No costs.

[N. J. JAMADAR, J.]