

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISCELLANEOUS CIVIL APPLICATION NO. 247 OF 2025

Ajitesh Chauhan

..Applicant

Versus

ANAND
SUDHAKAR
SUDAME

Sumit Kaur Malhotra

..Respondent

Mr. Amol B. Jagtap, Advocate, for the Applicant

Mr. Abhishek Mishra (Through VC), Advocate, for the Respondent

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CORAM : RAJESH S. PATIL, J.

DATE : 14.10.2025

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1. This is a transfer Application filed by the Applicant, who is the husband of the Respondent, seeking transfer of the D. V. proceedings filed by the Respondent – wife before the learned JMFC, Cantonment Court, Pune to the Family Court, Pune. Earlier, wife had filed transfer proceedings in the Supreme Court for transfer of the proceedings filed under Section 9 of the Hindu Marriage Act, 1955 for restitution of conjugal rights filed by the husband in Raebareli (Uttar Pradesh) to the District Court, Pune. Pursuant to the Order passed by the Supreme Court, the said proceeding was transferred to the District Court, Pune and is now, pending for hearing.

2. The Respondent – wife has filed a complaint under Section 498A

of the Indian Penal Code, 1860 (“IPC”) with the Vishrantwadi Police Station, Pune which after filing of the Charge-sheet would be listed before the learned JMFC, Pune. Even for the sake of argument it is presumed that the D. V. proceedings are transferred to the Family Court, Pune, then also the proceedings filed under Section 498A of the IPC would continue before the learned JMFC, Pune.

3. The Supreme Court in the case of ***N. C. V. Aishwarya vs. A. S. Sarvana Karthik Sha***, reported in ***2022 SCC OnLine SC 1199*** has held that while considering transfer proceedings, convenience of the wife has to be taken into consideration. Paragraph 9 of the said Judgment 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 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)

4. 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.”

5. I have heard learned Counsel for the respective parties and gone through the contents of the Application.

6. Considering the law laid down by the Supreme Court in the case of ***N. C. V. Aishwarya (Supra)*** and the view taken by me in the ***Jyoti Abhijeet Kandage (Supra)*** and considering the facts of the present proceeding including the fact that the Supreme Court has already passed an Order, by which the proceedings filed by the husband has

been transferred to the District Court, Pune. According to me, the Application deserves to be dismissed.

7. The Miscellaneous Civil Application stands dismissed.

8. The prayer for transfer of the proceeding, being PWDVA No. 190 of 2024 stands rejected.

(RAJESH S. PATIL, J.)