

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISCELLANEOUS CIVIL APPLICATION NO. 293 OF 2024**

Khushboo Ravindra Sharma

..Applicant

Versus

Kushal Deepak Sharma

...Respondent

Ms. Pipli Datta, for the Applicant.

Ms. Tejashree Joshi, with Suyash Parab, for the Respondent.

CORAM: N. J. JAMADAR, J.

DATED : 7th FEBRUARY 2025

P.C.:

1. Heard learned Counsel for the parties.
2. Leave to amend so as to correct the Marriage Petition Number in the Application and prayer clause. Necessary amendment be carried out within one week. Re-verification dispensed with.
3. This is an Application for transfer of Marriage Petition No. 61 of 2024 from the Court of Civil Judge, Senior Division, Kalyan to the Court of Civil Judge, Senior Division, Vaijapur.
4. The marriage of the Applicant was solemnized with the Respondent on 2nd May 2022 at Aurangabad. It seems, in the wake of marital discord proceedings have ensued.

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5. The Applicant has filed a complaint under Protection of Women from Domestic Violence Act 2005 (“DV Act”) being Criminal MA No. 111 of 2024 on the file of learned JMFC at Vaijapur. The Applicant has also lodged FIR leading to registration of CR No. 0542 of 2024 which culminated in RCC No. 370 of 2024 on the file of learned JMFC at Vaijapur.

6. The Respondent, in turn, has filed a Petition for dissolution of marriage under Section 13(1)(i-a) of Hindu Marriage Act 1955, before the Court of CJSD at Kalyan.

7. The Applicant has approached this Court seeking transfer of the proceeding as Kalyan is at a considerable distance from Vaijapur. The Applicant has no logistical support to attend the proceeding at Kalyan. The Applicant will not be in a position to effectively defend the proceeding at Kalyan.

8. An Affidavit in Reply is filed on behalf of the Respondent resisting the prayer for transfer.

9. The learned Counsel for the Respondent submitted that the Applicant has relied upon a forged document to show that her services have been terminated. However, there is material to show that even after the alleged termination of the service, the Applicant has acted as HR Manager. It was further submitted that the Applicant has

connections with influential persons in the Vaijapur and, therefore, the proceeding may not be transferred to the Court at Vaijapur.

10. The Applicant is staying at her parental home at Vaijapur and two proceedings are sub-judice before the Courts at Vaijapur. The Respondent has been appearing before the Courts at Vaijapur, in those proceedings.

11. 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 case of **N.C.V. Aishwarya Vs A.S. Saravana Karthik Sha¹** 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 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

1 2022 LiveLaw (SC) 627

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.

12. Ordinarily, it is the convenience of the wife, on account of socio-economic condition and resultant incapacity to effectively defend the proceeding, that commands preference in the matter of transfer of matrimonial proceeding. In the instant case, the distance between the Kalyan and Vaijapur is indeed prohibitive. In these circumstances, the Applicant would suffer greater inconvenience and hardship if the proceeding is tried at Kalyan. The concern of the Respondent can be addressed by providing liberty to the Respondent to appear through video conferencing and also directing the courts at Vaijapur to keep all the proceedings on one day, as far as possible.

13. I am, therefore, inclined to allow the Application.

14. Hence the following order.

ORDER

(i) The Miscellaneous Civil Application No. 293 of 2024 stands allowed.

(ii) The Marriage Petition No. 61 of 2024 pending on the Court of CJSD Kalyan, stands transferred to the Court of CJSD, Vaijapur, for hearing and disposal in accordance with law.

(iii) The learned CJSD Kalyan, shall transfer the record and proceedings in Marriage Petition No. 61 of 2024 with such dispatch that it reaches the Court of CJSD Court, Vaijapur, within a period of four weeks from the date of communication of this order.

(iv) The Respondent is at liberty to appear before the court of CJSD Vaijapur through VC. However, whenever the learned Civil Judge considers it appropriate and direct the Applicant to appear in person, the Applicant shall appear in person.

(v) The courts at Vaijapur are requested to keep all the proceedings on one day, as far as possible.

Application disposed.

[N. J. JAMADAR, J.]