



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISC. CIVIL APPLICATION NO.302 OF 2024**

Ujwala Jaywant Sawant	...	Applicant
versus		
Jaywant Yashwant Sawant	...	Respondent

Mr. Sujeet Bugade, for Applicant.
Mr. Suresh Kolte, 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 Petition No.A-325 of 2022 from the Family Court at Thane to the Family Court at Kolhapur.
3. The marriage of the applicant was solemnized with the Respondent on 22 May 2012. They are blessed with a son. In the wake of marital discord, the Respondent has filed a Petition for dissolution of marriage under Section 13 of the Hindu Marriage Act, 1955, being Petition No.A-325 of 2022. The applicant, on her part, has filed a proceeding under the Protection of Women from Domestic Violence Act, 2005, being Criminal Misc. Application No.21 of 2022 before the Court of Magistrate at Kolhapur.
4. In the application, it is averred that the applicant is residing at her parental home along with her son. The applicant has no means to effectively defend the proceeding at Thane.

5. Learned Counsel for the Respondent opposed the prayer for transfer. It was submitted that the applicant and her relatives have caused physical harm to the Respondent when he visited Kolhapur. The Respondent has a genuine apprehension for his safety in the event the proceeding is transferred to the Family Court at Kolhapur. It was submitted that the Respondent is taking undue advantage of the fact that she is a woman. Therefore, the proceeding may not be transferred to the Family Court at Kolhapur.

6. I have perused the averments in the application. Indisputably, the applicant is residing at Kolhapur, along with her minor son. There are averments in the application which indicate that the applicant does not have logistical and financial support to effectively defend the proceeding at Thane. The distance between Thane and Kolhapur is prohibitive. The applicant would suffer extreme inconvenience and hardship if the Marriage Petition is tried at Thane.

7. It is well recognized that 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

1 2022 LiveLaw (SC) 627

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 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.”

8. The aforesaid pronouncement governs the facts of the case at hand.

9. The apprehension on the part of the Respondent and element of inconvenience to the Respondent can also be mitigated by granting liberty to the Respondent to appear before the Family Court at Kolhapur, through Videoconferencing.

10. Hence, the following order :

ORDER

- (i) Application stands allowed.
- (ii) Petition No.A-325 of 2022 stands transferred from the Family Court, Thane to the Family Court at Kolhapur, for hearing and disposal in accordance with law.
- (iii) The learned Judge, Family Court, Thane shall transfer the record and proceedings in Petition No.A-325 of 2022 with such dispatch that it reaches the Family Court at Kolhapur, within a period of four weeks from the date of communication of this order.
- (iv) The Respondent is at liberty to appear before the Family Court at Kolhapur through Videoconferencing. However, whenever the learned Judge, Family Court, Kolhapur, considers it appropriate and directs the Respondent to appear in person, the Respondent shall appear before the Family Court at Kolhapur.
- (v) Application disposed.
- (vi) No costs.

(N.J.JAMADAR, J.)