

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISC. CIVIL APPLICATION NO.339 OF 2024**

Raviraj Subhash Chavan ... Applicant
versus
Smita Raviraj Chavan ... Respondent

**WITH
MISC. CIVIL APPLICATION NO.264 OF 2024**

Smita Raviraj Chavan ... Applicant
versus
Raviraj Subhash Chavan ... Respondent

Mr. Rajesh More for Applicant in MCA No.339 of 2024 and for Respondent in MCA No.264 of 2024.

Mr. Sugandh Deshmukh, for Applicant in MCA No.264 of 2024.

CORAM: N.J.JAMADAR, J.

DATE : 28 FEBRUARY 2025

P.C.

1. Heard the learned Counsel for the parties.
2. These cross applications have been filed for transfer of the proceedings filed by the Respondents before the jurisdictional courts.
3. The marriage of Smita – Applicant in MCA No.264 of 2024 was solemnized with the Respondent – Raviraj on 25 June 2007. In the wake of marital discord, the applicant claimed that she was constrained to reside at her parental home at Nashik. The applicant has filed proceedings under the Protection of Women from Domestic Violence Act, 2005 being PWDVA Application No.125 of 2024 before the Chief Judicial Magistrate, Nashik.

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4. The Respondent-husband has filed a Petition for dissolution of marriage, being Petition No.A-500 of 2024 under Section 13(1) (i-a) and (i-b) of the Hindu Marriage Act, 1955. The applicant – wife seeks transfer of the said Marriage Petition from the Family Court at Pune to the Family Court at Nashik.

5. The Respondent-husband has, on his part, filed MCA No.339 of 2024 seeking transfer of the proceedings under the Protection of Women from Domestic Violence Act, 2005, being PWDVA No.125 of 2024 from the Court of Chief Judicial Magistrate, Nashik to the Family Court at Pune for hearing and disposal along with Marriage Petition No.A-500 of 2024.

6. Both the parties have resisted the applications by filing affidavits in reply.

7. Mr. More, Learned Counsel for the husband, would submit that, in the circumstances of the case, the husband would suffer greater inconvenience if the proceedings are transferred to and tried at Nashik. The husband is employed and would be required to seek leave to attend the proceedings. The wife can attend the proceedings at Pune without much inconvenience. Emphasis was laid on the fact that the wife has appeared before the Court of the Magistrate at Pune in connection with SCC No.22238 of 2013 filed by the neighbour of the husband, in which both the husband and wife and their relatives are arraigned as accused. If the wife can attend the said

proceedings, there is no reason for her not to attend the matrimonial proceedings before the Family Court at Pune.

8. I am unable to persuade myself to agree with the submissions of Mr. More. The appearance before the criminal Court in which the wife has been arraigned as an accused, cannot be construed as an act of choice or render the other forums at the said place a forum of convenience. Appearance before the criminal Court is pursuant to the command of the Court. The distance between Pune and Nashik is, in a sense, prohibitive. Prima facie, it appears that the wife has not much financial and logistical support to effectively prosecute and defend the proceedings. If the proceedings are tried at Pune, the wife would suffer extreme inconvenience and hardship.

9. 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 Sha**¹ 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

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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."

10. The aforesaid enunciation of law governs the facts of the case at hand. The elements of convenience and hardship tilt in favour of the wife. I am, therefore, inclined to allow the application filed by the wife and reject the application filed by the husband.

11. Hence, the following order :

ORDER

- (i) Misc. Civil Application No.339 of 2024 stands rejected.
- (ii) Misc. Civil Application No.264 of 2024 stands allowed.
- (iii) Petition PA/500 of 2024 stands transferred from the

Family Court at Pune, to the Family Court at Nashik, for hearing and disposal in accordance with law.

(iv) The learned Judge, Family Court, Pune, shall transfer the record and proceedings in PA/500 of 2024 with such dispatch that it reaches the Family Court at Nashik, within a period of four weeks from the date of communication of this order.

(v) The Respondent-husband is at liberty to appear before the Family Court at Nashik through video conferencing. However, whenever the learned Judge, Family Court, Nashik considers it appropriate and directs the Respondent-husband to appear in person, the Respondent-husband shall appear before the Family Court at Nashik.

(vi) Misc. Civil Applications stand disposed.

(vii) No costs.

(N.J.JAMADAR, J.)