

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISC. CIVIL APPLICATION NO.348 OF 2024**

Tanaee Rohit Manglekar ... Applicant
versus
State of Maharashtra and Anr. ... Respondents

Mr. Gaurav Nankar (through VC) for Applicant.
Mr. Shelke, for Respondent No.2.

CORAM: N.J.JAMADAR, J.

DATE : 21 FEBRUARY 2025

P.C.

1. Heard the learned Counsel for the parties.
2. This is an application for transfer of Petition No.A-225 of 2021 from the Family Court at Sangli to the Court of Civil Judge, Sr. Division, Panvel.
3. The marriage of the applicant was solemnized with Respondent No.2 on 25 August 2019. In the wake of the marital discord, the applicant is residing separately at Panvel. The applicant has instituted proceedings under the Protection of Women from Domestic Violence Act, 2005, being Criminal Misc. Application No.1338 of 2021 in the Court of the learned Judicial Magistrate, First Class, Panvel. The applicant has also lodged a report leading to the registration of Regular Criminal Case No.852 of 2022 for the offences punishable under Sections 498-A, 323, 504, 506 of the Indian Penal Code in the Court of the learned JMFC, Panvel.
4. The Respondent No.2 has, in turn, filed a Petition for dissolution of

marriage, being Petition No.A-225 of 2021, before the Family Court at Sangli.

5. The applicant is practicing Ayurvedic Medicine at Panvel. The applicants finds it extremely inconvenient and onerous to travel to Sangli to defend Marriage Petition. Hence, this application for transfer of Marriage Petition No.A-225 of 2021 to the Court of Civil Judge, Sr. Division, Panvel for hearing along with Criminal Misc. Application No.1338 of 2021 pending on the file of the learned JMFC, Panvel.

6. Learned Counsel for Respondent No.2 resisted the application. It was submitted that there is no justifiable cause for seeking transfer of the Marriage Petition from the Family Court at Sangli to the Court of Civil Judge, Sr. Division at Panvel. Respondent No.2 would suffer inconvenience and hardship if the proceeding is transferred to Panvel.

7. From the perusal of the material on record, it appears that, in the wake of marital discord, multiple proceedings have been instituted. The applicant has lodged FIR resulting in prosecution of the Respondent No.2 for the offences punishable under Sections 498-A, 323, 504 and 506 of the Indian Penal Code i.e. Regular Criminal Case No.852 of 2022, and a proceeding under the Domestic Violence Act, 2005, being Criminal Misc. Application No.1338 of 2021. Respondent No.2, on his part, has filed a Petition for dissolution of marriage.

8. The applicant is a medical practitioner. She is residing and working at

Panvel. The distance between Panvel and Sangli is prohibitive. The applicant would find it inconvenient to effectively defend the said proceeding.

9. It is well recognized that in the matter of transfer of matrimonial proceeding, 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 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 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

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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.

I am, therefore, inclined to allow the application.

11. Hence, the following order :

ORDER

12. ORDER

- (i) Application stands allowed.
- (ii) Petition No.A-225 of 2021 stands transferred from the Family Court at Sangli to the Court of Civil Judge, Sr. Division, Panvel, for hearing and disposal in accordance with law.
- (iii) The learned Judge, Family Court, Sangli, shall transfer the record and proceedings in Petition No.A-225 of 2021 with such dispatch that it reaches the Court of Civil Judge, Sr. Division, Panvel, within a period of four weeks from the date of communication of this order.
- (iv) Respondent No.2 is at liberty to appear before the Court of Civil Judge, Sr. Division, Panvel through Video conferencing. However, whenever the learned Civil Judge considers it appropriate and directs Respondent No.2 to

appear in person, Respondent No.2 shall appear before the learned Civil Judge.

(v) The Courts at Panvel, where three proceedings between the parties would be subjudice, are requested to keep all the proceedings on one day, as far as possible.

Application disposed.

(N.J.JAMADAR, J.)