

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO.403 OF 2024

VISHAL
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Tejaswini Pratik Kolekar ...Applicant

vs.

Pratik Vasant Kolekar ...Respondent

Ms. Minal Chandnani, for the Applicant.

Mr. Sachinkumar Rajepandhare, for the Respondent.

CORAM : N. J. JAMADAR, J.

DATE : JANUARY 31, 2025

P.C:

1. Heard the learned counsel for the applicant.
2. This is an application under section 24 of the Code of Civil Procedure, 1908 for transfer of Marriage Petition No. 69 of 2024 from the Court of Civil Judge, Senior Division, Jaisinghpur to the Civil Court at Ulhasnagar.
3. The applicant is the wife of the respondent. Their marriage was solemnized on 21st April, 2022 at Kolhapur.
4. In the wake of marital discord and cruelty, to which the applicant was allegedly subjected to, the applicant was constrained to take shelter at her parental home. Applicant rejoined the matrimonial house as a settlement was arrived at between the applicant and the respondent, on 14th July, 2023.
5. The applicant alleges, the respondent committed breach of the terms of settlement and again harassed the petitioner. Thus, the

petitioner was constrained to lodge the reports with police leading to registration of FIR bearing No. 827 of 2023 and NC complaint. To give a counter blast, the respondent has filed a petition, being Marriage Petition No. 69 of 2024, for dissolution of marriage under section 13(i)(1a) of the Hindu Marriage Act, 1955.

6. The applicant is residing with her family at Ulhasnagar. It would be extremely inconvenient for the applicant to travel to Jaisinghpur to attend the matrimonial proceeding.

7. The respondent has resisted the application by filing a affidavit in reply. It is, inter alia, contended that on account of the cruelty to which the respondent has been subjected to by the applicant, the respondent has been suffering from depression. The respondent is dependent upon his parents. In such circumstances, it is not possible for the respondent to travel to Ulhasnagar, in the event the proceeding is transferred to Ulhasnagar. Copies of the medical certificate and prescriptions, are annexed to the affidavit in reply.

8. I have perused the material on record.

9. Incontrovertibly, the applicant is residing at Ulhasnagar. The distance between Ulhasnagar and Jaisinghpur is prohibitive. The circumstances which ought to weigh with the Court in the matter of transfer of proceeding and 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 Sha**¹ 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.”

10. In the case at hand, the elements of inconvenience tilt in favour of the applicant. It appears that if the matrimonial proceeding is tried at Jaisinghpur, the applicant would suffer extreme inconvenience and grave hardship. The applicant will not be able to be effectively defend the said proceeding. The concern of the respondent can be addressed by providing that the respondent may appear before the Court of Ulhasnagar through video conferencing, unless the physical presence of the respondent is warranted.

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Hence, the following order.

ORDER

- 1] Application stands allowed in terms of prayer clause (a).
- 2] Marriage Petition No. 69 of 2024 stands transferred from the Court of Civil Judge Senior Division, Jaisinghpur to the Court of Civil Judge Senior Division, Ulhasnagar for hearing and disposal in accordance with law.
- 3] The learned Civil Judge, Jaisinghpur shall transfer the record and proceedings in Marriage Petition No. 69 of 2024 with such dispatch that it reaches the Court of Civil Judge Senior Division at Ulhasnagar within a period of four weeks from the date of communication of this order.
- 4] The respondent is at liberty to appear through video conferencing. However, whenever the learned Civil Judge, Ulhasnagar consider it appropriate and directs the respondent to appear in person, the respondent shall appear in person.

Application disposed.

(N. J. JAMADAR, J.)