

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

MISCELLANEOUS CIVIL APPLICATION NO. 217 OF 2025

Akansha Subodh Gupta

..... Applicant

VERSUS

Aditya Krishnamani

..... Respondent

Mr. Pratik Deshmukh i/b. Mr.Ashwin Kapadia for the Applicant.

Mr. Aryavrat Dubey i/b. Mr.Sandeep Singh for the Respondent.

CORAM : RAJESH S. PATIL, J.

DATE : 15 SEPTEMBER, 2025

P.C. :-

- 1) This matter was on board on last week and at the request of the learned advocate for the applicant, is kept today.
- 2) Today, when the matter is called out in the morning session, a pass-over was requested.
- 3) After the matter was called out in the afternoon session, Mr.Deshmukh, learned advocate appearing for the applicant submits that the arguing counsel is not in Court today.
- 4) This is an application filed by the applicant wife seeking transfer of the petition filed by the husband for divorce before the Family Court at Bandra, Mumbai to the Civil Judge Senior Division,

Panvel.

5) Admittedly, as stated in the Memo of Application, the applicant (wife) is working with IQVIA RDS Pvt. Ltd. at Bangalore. The respondent husband is also working as a Vice-President at Goldman Sachs in Bangalore. The respondent husband filed divorce petition before the Family Court at Bandra, Mumbai. It appears that thereafter, the applicant wife lodged an First Information Report with Kamothe Police Station for the offences punishable under Sections 498-A, 323, 504 read with 34 of the Indian Penal Code. The charge-sheet has already been filed before the Judicial Magistrate First Class, Panvel in the said proceedings.

6) It is further case of the applicant that since 2022, she is working at Bangalore. An interim application for maintenance under Section 34 of the Hindu Marriage Act was filed by the applicant in the divorce proceedings filed by the husband. It is further stated in the memo of the application that the applicant wife is unable to travel to Bandra and attend matrimonial proceedings. Though the applicant is staying at Bangalore, her parents are staying at Kamothe, Panvel and hence she cannot attend the hearing of the petition, filed by the respondent at Family Court, Bandra. The place Kamothe is at a

distance of 32 km from Family Court, Bandra.

7) The applicant wife of her own, has filed DV proceedings at Kamothe. The marriage between the parties has taken place at Goregaon in the City of Mumbai.

8) A Single Bench of this Court in case of ***Anuraag Agarwal vs. Poonam Agarwal nee Mukim*** in ***Miscellaneous Civil Application No. 159 of 2023*** decided on 9 July, 2024 did not allow the transfer application filed by the husband. Paragraph nos. 15 to 17 of the said judgment reads as under :-

15. If conflict of judgment on same facts and between the same parties is the sole ground of transfer, every transfer petition filed by the husband will have to be allowed by this Court making the choice of wife to approach the Magistrate meaningless. The choice available to the wife file application either under section 12 or under Section 26 of the D.V. Act would be rendered nugatory. In the Application under Section 12, the Magistrate is required to make an endure to decide it in 60 days, whereas is a transfer petition is entertained by this Court it consume substantial time rendering the mandate of Section 12 of expeditious disposal nugatory.

16. In the motion moved in the Parliament to pass the D.V. Act 2005, the Hon'ble Minister in response to the concern raised by an as regards the limited time granted to the magistrate to decide the D.V. Application had responded as under:

“Shrimati Sumitraji is not present here. She said that the duration of 60 days is very less. But it has been mentioned

in the bill that magistrate shall try to dispose of the case within 60 days. Since this is an emergency law, therefore, it becomes necessary to set a time limit so that unnecessary delay may be avoided.”

Thus this Court should be slow in entertaining the application under Section 24 of the CPC to transfer application under Section 12 of the D.V. Act instituted by the wife before the Magistrate to the Family Court.

17. The Supreme Court in a case of Mohammed Danish Abdul Wahab & Ors. V/s. Farjana Mohammed Danish & Ors. reported in 2024 SCC Online SC 1435” where transfer was sought of proceedings under the D.V. Act to the Family Court, has passed following order:-

“1. The Petitioner No.1 who is the husband seeks transfer of the pending proceedings initiated under the Protection of Women from Domestic Violence Act, 2005. As the said proceedings being summary in nature where the legislature has consciously given an outer limit, we are not inclined to allow this Transfer Petition, instead we direct the Judicial Magistrate First Class, Bhivandi, Thane, Maharashtra to dispose of PWDVA No.51 of 2016 within a period of eight weeks from today.

2. The Transfer Petition, is accordingly, dismissed.

9) According to me, considering the fact that the Court at Kamothe and the Court at Bandra, Mumbai are around 30 to 35 km away and the fact that the petitioner wife is staying at Bangalore and

the transfer of the proceedings is opposed by the respondent husband.

There is no case made out.

10) Hence, **this Miscellaneous Civil Application stands rejected.**

[RAJESH S. PATIL, J.]