



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

MISC. CIVIL APPLICATION NO. 282 OF 2025

Mrs. Bharti w/o Pawan Kewlani @ Ms Bharti d/o Heeranand Khandwani

..vs..

Pawan s/o Kundandas Kewlani

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Ms Deepali Patil Sahare, Advocate (appointed) for the applicant.
Advocate Tabsih Mirza, Advocate for respondent.

CORAM: PRAVIN S. PATIL, J.

DATED : 01/10/2025.

Heard.

2. By this application, the applicant is seeking transfer of Marriage Petition No.1095/2024 from the file of Civil Judge Senior Division At Kalyan Court Mumbai to the court of Family Court. Nagpur.

3. It is the contention of the present applicant that the distance between Nagpur to Kalyan is near about 700 kilometers and she is residing along with her mother at Nagpur. As such, it is very inconvenient for her to attend the proceedings at Kalyan. The applicant stated that after the marriage she was under continuous threats from the non-applicant, and therefore, she is apprehending to travel from Nagpur to Kalyan.

4. Considering this aspect of the matter, she requested to transfer the proceedings from Kalyan Court to the Family Court at Nagpur.

5. In response to the notice issued by this Court, the non-applicant appeared in the matter and opposed the application. It is the submission of the non-applicant that there is no sufficient reason stated in the application for transfer the proceedings except the distance. It is denied that there are any threats from the non-applicant to the

applicant. It is pointed out from the record that applicant failed to establish that there was any time any threats given by non-applicant to the applicant. In the circumstances, the application deserves to be rejected.

6. Learned Counsel for the applicant has pointed out the judgment of the Hon'ble Supreme Court in the case of *N.V.C. Aishwarya vs. A.S. Saravana Karthik Sha 2022 SCC Online SC 1199* particularly at paragraphs 9 and 10 as under :

“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.”

7. In the present case, admittedly, the applicant is residing with her old aged mother and applicant and non-applicant are separated from the year 2016. Therefore, she is finding it difficult to attend the proceeding by travelling

from Nagpur to Kalyan. It is also pointed out by the applicant that she is not having independent earning source to attend the proceeding at Kalyan. On the other hand, if the proceedings are transferred from Kalyan to the Family Court, Nagpur, the non-applicant can attend the proceeding as he has no any impediment to attend the matter.

8. It is also pertinent to note that presently in the Family Court, matters can be attended through video conferencing, only in exceptional circumstances the attendance of the party is required. Therefore, as and when the personal attendance of non-applicant is required then only he can appear in the Family Court personally.

9. Considering this aspect of the matter, I proceed to pass the following order :

- (a) The application is allowed.
- (b) The Marriage Petition No.1095/2024 is transferred from Civil Judge, Senior Division, Kalyan to the Judge, Family Court, Nagpur.
- (c) The Civil Judge Senior Division to transfer the R & P of the said marriage petition to the Judge, Family Court at Nagpur.
- (d) Non-applicant is permitted to attend the proceeding bearing Marriage Petition No.1095/2024 before the Family Court, Nagpur, through video conferencing.
- (e) It is however, made clear that as and when his personal appearance is required, non-applicant will have to made available himself before the Family Court, Nagpur.

10. Fees of the appointed Counsel be paid as per rules.

(PRAVIN S. PATIL, J.)