



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

MISC. CIVIL APPLICATION (TR) NO. 878 OF 2024

Jyoti W/O Nitin Dhakate Vs Nitin Ramesh Dhakate

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. A.P. Raghute, counsel for applicant.

Mr. S.R. Kadam, counsel non-applicant.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 15/01/2025.

1. By this application, the applicant/wife is seeking transfer of the matrimonial proceedings bearing Marriage Petition No. A-745/2024 pending before the Family Court No. 5, Pune, to the Family Court, Nagpur.

2. Learned counsel for the applicant submitted that they are the husband and wife, and due to the matrimonial dispute between them, now they are residing separately. The wife has already filed a petition bearing No. A-1063/2023, which is pending in Family Court No. 3 at Nagpur under Section 125 of the Code of Criminal Procedure. The non-applicant is also facing the prosecution under Section 377 of the Indian Penal Code and attending the Sessions Court at Nagpur, and therefore, no prejudice will be caused to him if the marriage petition bearing No. A745/2024 is transferred from the Family Court No. 5 Pune to Family Court No. 3 at Nagpur. He further submitted that the distance between Pune to Nagpur is 750 km, and it is difficult for the applicant to attend the proceeding by travelling to Pune. Moreover, the

non-applicant has not paid the maintenance amount, and therefore, she is unable to incur the expenses towards the traveling. In view of that, the application deserves to be allowed.

3. Learned counsel for the non-applicant strongly opposed the said application and submitted that by consent, the applicant and non-applicant have filed the mutual divorce petition before the Family Court, Pune, and now, the applicant has filed this application by creating the false ground. It is further submitted that no prejudice will be caused to the wife. In view of that, the application deserves to be rejected.

4. Having heard learned counsel for the applicant and the learned counsel for non-applicant, perused the recitals of the application, from which it reveals that the application of the applicant bearing no. A-1063/2023 for restitution of conjugal rights and the petition under Section 125 is already pending before the Family Court, Nagpur. Now the matrimonial petition A-745/2024 is filed by the non-applicant for dissolution of marriage. The non-applicant is already attending the proceeding at Nagpur. As he is facing prosecution under section 377 IPC. Thus, considering this fact, no prejudice will be caused to the present non-applicant if the marriage petition bearing No. 745/2024 is transferred from Pune to Nagpur. In view of that, the application deserves to be allowed.

5. The Hon'ble Apex Court has also dealt with the issue in case of *D. Raja Rajeswari Vs. R. Sathish Kumar (2022) 2 SCC 329*, wherein it is held that multiple proceedings between the same parties transferred and consolidation of all proceedings before one Court when warranted and while answering this question the Hon'ble Apex Court held that it is in the interest of justice that all these matters be heard by the same Court and the matter was transferred by considering the convenience of the wife.

6. In view of the observations of the Hon'ble Apex Court, the present application deserves to be allowed. Accordingly, I proceed to pass the following order.

- a] The Misc. Civil Application is **allowed**.
- b] The Hindu Marriage Petition bearing No. A 745/2024 pending before the Family Court No.5, Pune be transferred to the Family Court No.3, Nagpur.
- c] Both parties shall remain present before the Family Court, Nagpur on 07/02/2025.

7. The Misc. Civil Application is **disposed of**.

[URMILA JOSHI-PHALKE, J.]