



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

MISC. CIVIL APPLICATION (TR) NO. 928 OF 2024

Gurudev S/o Eknathji Waghmare Vs Komal W/O Gurudev Waghmare

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

Court's or Judge's Order

Mr. S.S. Chopde, counsel for applicant.

Mr. Chandiram F. Bhagwani, counsel for non-applicant.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 15/01/2025.

1. By this application, the applicant/husband is seeking transfer of the proceedings bearing Criminal Miscellaneous Application (D.V.) No. 1180/2024 pending before Additional Chief Judicial Magistrate, Nagpur, to Family Court No. 2, Nagpur.

2. The ground raised by the applicant is that the applicant and non-applicant are husband and wife, and their marriage was solemnized on 25/05/2023. After marriage, there was a matrimonial dispute between them, and therefore, the non-applicant/wife has filed the proceedings before the Additional Chief Judicial Magistrate, Nagpur, under the provisions of the Protection of Women from Domestic Violence Act, 2005, bearing Criminal Miscellaneous Application (D.V.) No. 1180/2024. She has also filed an application under Section 125 of the Code of Criminal Procedure, 1973, for grant of maintenance on 06/03/2024, which came to be registered as Petition E-82/2024, which is pending before the Family Court. It is further submitted by

learned counsel for the applicant that if both the petitions are tagged together in one court, there would not be a difference of opinion. In view of that, both the proceedings be transferred to the Family Court No.2, Nagpur.

3. In support of his contention he placed reliance on the decision of this Court in the case of ***Dr. Sandeep Shekar Shetty vs Dr. Sarika Sandeep Shetty [2021 SCC Online Bom 3441]***.

4. Learned counsel for the non-applicant strongly opposed the said application and submitted that no prejudice will be caused to the present applicant if he attends the proceedings in both courts. In view of that, the application deserves to be rejected.

5. The issue about the transfer of proceedings from the Magistrate Court to Family Court is no more res-integra and it is observed by this Court in the referred judgment of ***Dr. Sandeep Shekar Sheety*** referred (supra), wherein this Court has considered that on comparison of two enactments, the former being an enactment to provide for establishment of the Family Courts with a view to promote conciliation, for securing speedy settlement of disputes relating to marriage and family affairs, it can be seen that Section 7 of the said Act sets out the jurisdiction of Family Courts and provides that subject to the other provisions of the Act, it adumbrates that the Family Court shall have the jurisdiction exercisable by any district court or any subordinate civil court under any law for the time being in force in respect of suits and proceedings of

the nature referred to in the explanation and be deemed, for the purposes of society such jurisdiction under such law, to be deemed to be a district court. Section 7 also permits the Family Court to exercise jurisdiction, which is exercisable by a Magistrate of the First Class under Chapter IX, and such other jurisdictions conferred on it by any other enactment. This would definitely cover the jurisdiction exercisable by the Magistrate under the Domestic Violence Act, as on perusal of sub-section (2) of Section 7, clause (a) contemplates the jurisdiction exercisable by the Magistrate of First Class under Chapter IX of the Cr.P.C. Whereas, clause (2) contemplates such other jurisdiction as may be conferred on it by any other enactment.

6. In view of the above observations, the present application deserves to be allowed. Accordingly, I proceed to pass the following order.

- a] The Misc. Civil Application is **allowed**.
- b] The Criminal Miscellaneous Application (D.V) No. 1180/2024 pending before the Additional Chief Judicial Magistrate, Nagpur is hereby withdrawn and transfer to the Family Court No.2, Nagpur.
- c] Both parties shall remain present before the Family Court No.2, Nagpur on 18/02/2025.

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

[URMILA JOSHI-PHALKE, J.]