



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

MISC. CIVIL APPLICATION (Tr.) NO.275 OF 2024

Kalyani Tanmay Kale
Vs.
Tanmay s/o Gangadhar Kale

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

Court's or Judge's orders

Ms. Naina P. Dhoke, Counsel h/f Mr. M. V. Rai, Counsel for the applicant.
Mr. S. A. Dutonde, Counsel for the non-applicant.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 22/01/2025

1. Heard.
2. By this application, the applicant invoking the jurisdiction of this Court under Section 24 of the Code of Civil Procedure, 1908.
3. The contention of the applicant is that she is a legally wedded wife of the non-applicant and their marriage was solemnized on 27.01.2022 at Wardha. After marriage, there was a discord between them and therefore, she constrained to leave at her parent's house at Wardha. The non-applicant husband has filed an application for grant of divorce bearing No.A-994/2023 for dissolution of marriage. The applicant has also filed a Criminal Application PWDVA No.69/2023 before the learned Chief Judicial Magistrate, Wardha which is

pending at Wardha. It is submitted that the applicant has no source of income and she has to look after her old aged parents also and therefore, it is difficult for her to attend the proceeding at Wardha. She has no means to incur the expenses. Thus, considering all these aspects, the matrimonial petition filed by the non-applicant bearing No.A-994/2023 pending before the learned Family Court, Nagpur be transferred to the learned Civil Judge Senior Division, Wardha. It is further contended that the non-applicant is already attending the proceeding at Wardha, therefore, no prejudice will be caused to him.

4. Learned Counsel for the non-applicant strongly opposed the said application and submitted that the applicant is highly qualified lady. She is studying in 3rd year engineering and she is also doing a private job therefore, the contention that she has no means to incur the expenses is false. He further submitted that even she can file an appropriate application for the expenses therefore, that cannot be ground to allow the application for transfer the petition and prays for rejection of the application.

5. After hearing learned Counsel for both the parties and perused the record. Admittedly, the non-applicant has to attend the proceeding at Wardha which is filed by the wife i.e. the applicant under the provisions of the Protection of Women from Domestic Violence Act bearing No.69/2023.

Considering the applicant has to take care of her old parents and she has to travel from Wardha to Nagpur and it would be appropriate for all the proceedings are decided at one place. In view of that, the application deserves to be allowed.

6. Moreover, the Hon'ble Apex Court in the case of **N.C.V. Aishwarya Vs. A.S. Saravana Karthik Sha** reported in **AIR 2022 SC 4318** wherein Hon'ble Apex Court held that "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."

7. In view of the observation of the Hon'ble Apex Court and considering the convenience of the applicant is to be looked into, the application

deserves to be allowed. Accordingly, I proceed to pass following order:

ORDER

- (i) The application is allowed.
- (ii) The matrimonial proceeding i.e. Petition A-994/2023 is withdrawn from the file of the Family Court, Nagpur and transferred to the Civil Judge Senior Division, Wardha.
- (iii) Both parties shall appear before the Civil Judge Senior Division, Wardha on **25.02.2025**.

The application is disposed of.

(URMILA JOSHI-PHALKE, J.)