



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

MISC. CIVIL APPLICATION (Tr.) NO.1012 OF 2024

Sau. Pratibha Ravi Nagrale
Vs.
Ravi Sadashivrao Nagrale

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

Court's or Judge's orders

Mr. A. S. Dhage, Counsel for the applicant.

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

1. Heard.
2. The applicant invoking the jurisdiction of this Court under Section 24 of the Code of Civil Procedure, 1908.
3. As per the contention of the applicant that she is legally wedded wife of the non-applicant and their marriage was performed on 22.06.2017. After marriage, she resumed the cohabitation at the house of the non-applicant, but due to the dispute, she constrained to leave her matrimonial house and took shelter at her parent's house. Thereafter, she filed an application under Section 125 of the Code of Criminal Procedure (for short' Cr.P.C.') for maintenance before the learned Judicial Magistrate First Class, Akot bearing Criminal M.A. No.95/2024. To give a counterblast to the said proceeding, the

non-applicant has also filed Hindu Marriage Petition No.85/2024 in the Court of Civil Judge Senior Division, Warora. As far as the maintenance is concerned, the applicant has not received any maintenance amount from the non-applicant. She is having 6 years old son. The distance between the Warora and Akot is 304 Kilometers and therefore, it is difficult for her to travel and attend the proceeding by leaving behind the son as there is nobody to look after him. Thus, considering the convenience of the present applicant and considering the fact that the non-applicant is already attending the proceeding under Section 125 of Cr.P.C. at Akot, the application be allowed and the matter be transferred to the Civil Judge Senior Division, Akot.

4. Notice of the said application though served on the non-applicant, he failed to appear and therefore, the application is heard in his absence.

5. After hearing both sides and on going through the record, it reveals that the applicant has filed the criminal proceeding under Section 125 of Cr.P.C. which the non-applicant is already attending and the Hindu Marriage Petition filed by the non-applicant is pending in the Court of Civil Judge Senior Division, Warora. Now, it is well settled that while considering the transfer application especially in matrimonial matters, the convenience of the wife is to be looked into. This aspect is also dealt by 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 the 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."

6. In view of the observation of the Hon'ble Apex Court and considering the distance between the Akot and Warora is 304 Kilometers, the applicant has to leave a child if she has to attend the proceeding at Warora as there is nobody to look after, therefore considering the convenience of the wife, the application deserves to be allowed. Accordingly, I proceed to pass following order:

ORDER

- (i) The application is allowed.

(ii) The Hindu Marriage Petition No.85/2024 is hereby withdrawn from the file of the Civil Judge Senior Division, Warora and transferred to the Civil Judge Senior Division, Akot, District Akola.

(iii) Both parties shall appear before the Civil Judge Senior Division, Akot on 10.02.2025.

The application is disposed of.

(URMILA JOSHI-PHALKE, J.)