



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

MISC. CIVIL APPLICATION (TR.) NO.408/2025

Rashmi w/o Sagar Bhogewar
(Rashmi d/o Devendra Thool)
Aged about 23 years, Occu. Student
at present R/o C/o Surendra Kumbhare, Gajanan
Nagar, Arvi Naka, Tah. And Dist. Wardha

... **APPLICANT**

...VERSUS...

Sagar s/o Rajesh Bhogewar
Aged about 29 years, Occu. Business
R/o Rajendra Prasad Ward, Ballarpur
Dist. Chandrapur 442701

... **NON-APPLICANT**

Ms Poonam D. Pisurde, Advocate for applicant
None for non-applicant

CORAM : PRAVIN S. PATIL, J.

DATED : 27.11.2025

ORAL JUDGMENT

. Heard.

2. By this application, the applicant is seeking the transfer of matrimonial proceedings bearing H.M.P. No. A – 86/2025 pending on the file of learned Civil Judge Senior Division, Chandrapur, to the learned Civil Judge Senior Division, Wardha.

3. This Court on 11.07.2025, issued notices to the non-applicant. The same was not served by regular mode and, therefore, permission was granted to serve by private mode. In addition to this, permission was granted to serve the notice to the non-applicant through his Counsel, who is appearing in the pending cases at Chandrapur.

4. The applicant has placed on record the affidavit of service stating that by private mode of service, the service is completed and also served through the Counsel of non-applicant appearing before the learned Civil Judge Senior Division, Chandrapur. I am satisfied that non-applicant is duly served in the matter.

5. In the present matter, the non-applicant seems to be not interested to appear before this Court because, though the service is effected as he chooses not to appear in the matter till date after effecting service of notice on him. Hence, I proceed to decide the present application on its own merits.

6. It is the submission of the present applicant that her marriage was solemnized against the will of her parents and in the presence of panchas and the friend circle of the non-applicant. Accordingly, it is stated that the marriage was performed at Shri Sadguru Jagannath Sasthan Shedgaon (Chourasta), District Wardha. It is further pointed out that after the marriage, applicant never resided with the non-applicant. She is residing with her parents at Wardha. At present she is not willing to co-habit with non-applicant.

7. It is stated that the non-applicant has filed the proceedings under Section 9 of the Restitution of Conjugal Rights at Chandrapur when he realized that applicant is not willing to co-habit with him. The present applicant stated that she is taking education at Wardha and she is having apprehension to attend the proceedings at Chandrapur. According to her, if she attends the proceedings at Chandrapur, there is a threat to her life and she is not willing to cohabit with the non-applicant.

8. The applicant in this regard has made specific averments in the present application. In addition to this, it is the

case of the applicant that there is no earning member in her family except her father. Her father is employed as an Operator at Uttam Galva Company and receiving meager salary. It will be difficult for her to attend the proceedings at Chandrapur.

9. All the averments made in the application are remain uncontroverted due to absence of non-applicant in the matter. The averments made in the application are on affidavit and, therefore, there is no reason to disbelieve the same.

10. As per the law laid down by the Hon'ble Supreme Court in case of *N.C.V. Aishwarya Vs. A.S. Saravana Karthik Sha in Civil Appeal No. 4894 of 2022 (Arising out of SLP (C) No. 16465 of 2021)*, the Hon'ble Supreme Court has laid down the principles that in such peculiar facts and circumstances, behavioural pattern is also important to be looked into to decide the proceedings in a fair and proper manner. The Hon'ble Supreme Court has specifically observed in para 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.”

11. In the present case, considering the averments made in the application, I am of the opinion that the law laid down by the Hon'ble Supreme Court of India is applicable in the matter. So also, the fact that the distance between Nagpur to Chandrapur is about 130 kms. and there is no person except father to accompany the present applicant. It will be difficult for her to attend the proceedings at Chandrapur.

12. Per contra, no inconvenience would be caused to the respondent who is young age of 39 years and doing the business to attend the proceedings if same are transferred at Wardha. In view of the aforesaid reasons, I proceed to pass the following order:

ORDER

- i) The application is allowed.
- ii) The proceeding bearing H.M.P. No.86/2025 pending before the learned Civil Judge Senior Division, Chandrapur, is hereby transferred to learned Civil Judge Senior Division, Wardha.
- iii) Learned Civil Judge Senior Division, Chandrapur, is directed to transfer the record and proceedings of H.M.P. No.86/2025 to learned Civil Judge Senior Division, Wardha.

13. The application is disposed as in above terms. No order as to the costs.

(PRAVIN S. PATIL, J.)

R.S. Sahare