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cri apln 872.26

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

918 CRIMINAL APPLICATION NO. 872 OF 2026

**ANIL FULCHAND CHATE
VERSUS
SONALI ANIL CHATE**

**WITH
921 MISC.CIVIL APPLICATION NO. 55 OF 2026**

**ANIL FULCHAND CHATE
VERSUS
SONALI ANIL CHATE**

.....

Advocate for the Applicant : Mr. Amol Ratan Gaikwad
Advocate for the Respondent : Mr. Narendra B. Patekar

.....

**WITH
936 MISC.CIVIL APPLICATION NO. 15 OF 2025**

**SONALI ANIL CHATE
VERSUS
ANIL FULCHAND CHATE AND ANOTHER**

.....

Advocate for the Applicant : Mr. Narendra B. Patekar
Advocate for the Respondents : Mr. Amol Ratan Gaikwad

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**CORAM : Y.G. KHOBRAGADE, JJ.
RESERVED ON : 11.03.2026
PRONOUNCED ON : 13.03.2026**

ORDER :-

1. Heard the learned counsel appearing for the applicant/husband and the learned counsel appearing for the non-applicant at length.
2. In Criminal Application No.872/2026, the applicant/husband has invoked the jurisdiction of this Court under Section 447 of the Bharatiya Nagarik Suraksha Sanhita, 2023 and prayed for transfer of Criminal M.A. No.926/2024 from the file of learned C.J.M., Ahmednagar to the file of learned Family Court Pune in which Court HMP No.202/2024 is pending.
3. In M.C.A. No.55/2026, the applicant/husband prays for transfer of HMP No.202/2024 from the file of learned Family Court, Ahmednagar to the file of learned Family Court, Pune.
4. In M.C.A. No.15/2026, the applicant/wife prays for transfer of HMP No.683/2024 from the file of learned Family Court, Pune to the file of learned Family Court, Ahmednagar.
5. Having regard to the submissions canvassed on behalf of both the sides, I have gone through the record. It is not in dispute that the marriage between the applicant and non-applicant was solemnized on 02.06.2010 at Chetana Lawns, Nagar-Aurangabad Road, Ahmednagar as per the customs and rites prevailing in their society. The applicant/husband is Ex-Serviceman

having served in Indian Navy and now he is working as a Clerk in the office of Pune Municipal Corporation. It is not in dispute that out of the matrimonial relations, the applicant and the non-applicant are blessed with a girl child who is studying in 9th Std. at Kendriya Vidyalaya, Chandan Nagar, Pune and staying with the applicant/husband and his family members. However, due to matrimonial discord, the non-applicant/wife filed HMP No.202/2024 before the Family Court, Ahmednagar and prayed for decree of restitution of conjugal rights, whereas, the applicant/husband has filed HMP No.683/2024 before the Family Court, Pune and prayed for decree of dissolution of marriage. Further, the non-applicant/wife also filed Criminal M.A. No.926/2024 before the C.J.M., Ahmednagar under Section 12 of the Protection of Women from Domestic Violence Act, 2005. Apart from this, the applicant/husband has also filed Petition No.B-106/2024 before the learned Family Court, Pune under Section 34, 38 of the Specific Relief Act, 1963 read with Section 7 of the Family Courts Act, 1984 and prayed for decree of perpetual injunction restraining the non-applicant/wife from interfering with his peaceful possession over the landed properties described in para 3 of the said petition. The applicant/husband further prayed for restraining the non-applicant/wife from selling her rights over the property described in para 3(a) of the said petition.

6. The learned counsel appearing for the applicant/husband canvassed that the applicant is an Ex-Serviceman and presently serving as a Clerk in Pune Municipal Corporation. The applicant/husband is also required to maintain his old aged father who is suffering from Cancer and he is also maintaining the female child. The non-applicant/wife did B.B.A. from University of Pune, Bachelor of Vocation (B.VoC) in Early Childhood Education from Tata Institute of Social Science and had also completed MS-CIT. So also, distance between Pune and Ahmednagar is 120 kms only. Therefore, the non-applicant/wife can easily travel from Ahmednagar to Pune to attend the proceeding instituted before the learned Family Court, Pune as well other proceedings, if the same are transferred to the Family Court, Pune.

7. Per contra, the learned counsel appearing for the non-applicant/wife strongly resisted the applications filed by the applicant/husband seeking transfer of matrimonial proceedings from the learned Family Court and C.J.M. Court, Ahmednagar on the ground that the non-applicant/wife is a lady, and inconvenience would be caused to her in traveling from Ahmednagar to Pune. So also, the non-applicant/wife is not having any lodging and boarding facility at Pune, hence, prayed for rejection of applications.

8. In support of these submissions, the learned counsel appearing for the non-applicant/wife placed reliance on the following case laws:

- i. ***Ruchi Rawat v/s. Principal Judge, Family Court, Etah and Anr.; 2022 SCC OnLine SC 2036.***
- ii. ***Sumita Singh v/s. Kumar Sanjay and Anr.; (2001) 10 SCC 41***
- iii. ***Board of Secondary Education Manipur v/s. C.W. Leiyachan and Ors. (2001) 10 SCC 42***
- iv. ***Shweta Milind Hoble v/s. Milind Anil Hoble; 2019 SCC OnLine Bom 548***
- v. ***Akanksha Dayanand Bobade v/s. Dayanand Vishnu Bobade; 2021 SCC OnLine Bom 13810.***

9. In the case of ***Shweta Milind Hoble cited (supra)***, it has been observed as under:

“ Under section 24 of the Code of Civil Procedure, 1908, power of the High Court to transfer the cases cannot be whittled down so far as the matrimonial proceedings, initiated in the Courts, subordinate to High Court. In fact under section 24 of the Code of Civil Procedure, 1908, the High Court has got unquestionable power to transfer the cases from one Court to other Court, as the Family Court and the Court of Civil Judge, Senior Division, Panjim are Courts subordinate to High Court. Applicant-wife would be deprived of fair trial if she is made to contest proceedings at Goa which is about 1000 kms. away from her place of residence. The proceedings filed by her husband in the Court at Panjim, Goa are transferred to the Family Court, at Bandra, Mumbai.”

10. After perusal of the cited case laws, it appears that the matrimonial matters can be transferred taking into consideration the convenience of the wife. However, in the case in hand, it *prima facie* appears that, the present non-applicant/wife has studied in Pune and she is well educated. So also, the daughter of applicant and non-applicant is staying with the applicant/husband at Pune. The distance between Ahmednagar to Pune is hardly 120 kms and there are various modes of transportation available such as Trains, Private Buses as well as Government Buses.

11. It is not the case of non-applicant/wife that she is not familiar with Pune city and as such she studied in Pune city, hence, she can travel from Ahmednagar to Pune. It further appears that, the applicant/husband has also filed HMP No.683/2024 under Section 13(1)(i) and 13(1)(a) of the Hindu Marriage Act seeking decree of dissolution of marriage and Petition No.B-106/2024 before the learned Family Court, Pune under Section 34, 38 of the Specific Relief Act, 1963 read with Section 7 of the Family Courts Act, 1984 and prayed for decree of perpetual injunction restraining the non-applicant/wife from interfering with his peaceful possession of the properties described in para 3 of the said petition.

12. It is well settled principle of law that if matrimonial proceeding is initiated before the Family Court in that circumstances the proceedings under

the Protection of Women from Domestic Violence Act, 2005 can also be entertained by the Family Court. Nonetheless, the non-applicant/wife has filed HMP No.202/2024 before the C.J.M., Ahmednagar seeking decree of restitution of conjugal rights and Cri. M.A. No.926/2024 under the provisions of the D.V. Act 2005.

13. Therefore, considering the peculiar facts and circumstances of the present case, I am of the view that the applicant/husband cannot be compelled to travel to Ahmednagar from Pune to attend the proceedings, whereas, the non-applicant/wife can travel from Ahmednagar to Pune to attend the matrimonial proceedings before the learned Family Court, Pune. However, the applicant/husband will have to bear the conveyance, lodging and boarding expenses of Rs.5,000/- which shall be payable by the applicant/husband to non-applicant/wife on each visit to Pune for attending the dates of the said proceedings. The applicant/husband shall pay Rs. 5,000/- to the non-applicant wife whenever she attends the dates of the above said proceedings physically at Family Court, Pune

14. In view of above, I proceed to pass the following order:

ORDER:

i. Criminal Application No.872/2026 and Misc. Civil Application No.55/2026 are hereby allowed.

- ii. Misc. Civil Application No.15/2025 is dismissed.
- iii. Criminal M.A. No.926/2024 is hereby withdrawn from the file of learned C.J.M., Ahmednagar and it is transferred to the file of learned Family Court, Pune.
- iv. HMP No.A-202/2024 is hereby withdrawn from the file of learned Family Court, Ahmednagar and it is transferred to the file of learned Family Court Pune.
- v. The applicant/husband shall bear the conveyance, lodging and boarding expenses and shall pay Rs.5,000/-to non-applicant/wife on her visiting Pune physically for attending the dates of the above said proceedings.
- vi. The copy of this order be communicated to both the Courts below for proper adjudication.

[Y.G. KHOBRADE, J.]