

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

Transfer Petition(s)(Civil) No(s). 273/2020

VINITA JAYESH RAMCHANDANI

Petitioner(s)

VERSUS

JAYESH MANOHAR RAMCHANDANI & ANR.

Respondent(s)

O R D E R

This Transfer Petition has been preferred by the petitioner-wife under Section 25 of the Code of Civil Procedure, 1908 seeking transfer of Matrimonial Case No. P.A. No. 1469 of 2019, pending before the Family Court Pune, Maharashtra to the competent Court at Ahmedabad, Gujarat.

I have heard learned counsel for the petitioner-wife and the learned counsel for the respondent no.1 in extenso.

During the course of the submissions, learned counsel for the petitioner-wife, with reference to the transfer Petition as well as the rejoinder filed by the petitioner-wife, submitted that petitioner-wife is presently residing at Ahmedabad with her parents that though, the parties were earlier residing together at Pune, the petitioner-wife subsequently shifted her place of residence to her parents'

house, owing to the matrimonial discord between the parties. Learned counsel for the petitioner-wife also submitted that the petitioner-wife is currently looking after a girl child, born out of the wedlock in the year 2017, who is about 05 years of age and owing to the medical condition of the child, she is in need of constant treatment and requires the attention of the petitioner-wife and therefore, it would not be possible for the petitioner-wife to travel all the way from Ahmedabad to Pune to contest the petition filed by the respondent-husband seeking divorce.

Learned counsel for the petitioner-wife also submitted that the petitioner-wife has filed three other proceedings in Ahmedabad namely:

- a) FIR No. 48 of 2019 dated 05.11.2019 in Mahila Police Station(West) Ahmedabad under Section 498(A), 323, 325, 294(B), 406, 114, 506(2) of the IPC, on the basis of which charge sheet has been filed against the respondent-husband.
- b) Petition seeking maintenance under Section 125 of the Criminal Procedure Code and
- c) Complaint under Section 12 of the Domestic Violence Act.

Learned counsel for the petitioner-wife submitted that the respondent-husband has been contesting the above mentioned proceedings at Ahmedabad and therefore, it would be in the interest of the parties and particularly, the petitioner-wife, to transfer

the aforesaid Matrimonial Case No. P.A. No. 1469 of 2019 to Ahmedabad, Gujarat so that they could be heard and disposed of along with the Maintenance Petition filed by the petitioner-wife.

Per contra, the learned counsel for the respondent-husband drew my attention to the petition filed by the respondent-husband on the grounds of Cruelty and adultery and contended that, Respondent No.2 is arraigned in the petition, in order to prove the ground of adultery, as against the petitioner-wife, herein.

Learned counsel for the respondent-husband also submitted that the witnesses to prove the grounds of cruelty as well as adultery are all based in Pune, Maharashtra including the aged parents of the respondent-husband and therefore, the interest of the justice would be best subserved if the proceeding is to continue at Pune, Maharashtra itself.

Learned counsel for the respondent-husband also brought to my notice the fact that the respondent-husband has initiated Criminal Complaint which is now converted to RCC No. 5529/2019 at Pune, which the petitioner-wife and respondent no. 2 have to defend and therefore, the petitioner-wife will have to perforce travel to Pune, Maharashtra for that purpose.

Learned counsel for the respondent-husband also submitted that having regard to the allegations of adultery made against the petitioner-wife, proceedings may be retained at the Family Court at Pune, Maharashtra so as to effectively prove the said charge as against the said petitioner-wife herein.

Responding to the said submission, the learned counsel for the petitioner-wife vehemently refuted the said allegations and

contended that if at all the said charge has to be proved, the burden is on the respondent-husband herein and the mere fact that such a charge has been made on the petitioner-wife does not imply that the same has been proved . It is ultimately for the respondent-husband herein to take steps to prove the said charge. Therefore, the learned counsel for the petitioner-wife submitted that the relief sought for by the petitioner-wife may be granted in this petition.

Though there were several allegations and counter allegations made against the parties, with reference to the pleadings in the counter affidavit as well as in the rejoinder affidavit, including the Transfer Petition itself, it would be unnecessary to refer to those, as the matter is still at large between the parties in various proceedings that have been filed *inter se* between the parties. Therefore, the only question that is now being considered is, as to whether, the prayer, made by the petitioner-wife seeking transfer of the Divorce Petition, which is now pending before the Family Court at Pune, Maharashtra to the competent Family Court at Ahmedabad ought to be granted or not.

The detailed narration of facts and contentions would not fall for reiteration. However, the following facts will have to be considered:

- 1) Firstly, that the petitioner-wife herein, has initiated three proceedings before various competent Courts in Ahmedabad and the respondent-husband has been contesting those proceedings.
- 2) Secondly, the Matrimonial Case No. P.A. No. 1469 of 2019 is

still at a nascent stage and the petitioner-wife herein has though appeared in the said proceeding, has not filed her statement of objection or written statement and therefore, there has been not much of a progress in the said case particularly, owing to the order of stay of proceedings, granted by this Court.

- 3) The petitioner-wife herein, has the responsibility of looking after her minor child, who is aged about 05 years and who is in constant need of medical attention.
- 4) The petitioner-wife is now residing with her parents and hence, it is contended that owing to the circumstances in which the petitioner-wife is placed, she could effectively defend the divorce proceedings at Ahmedabad, Gujarat rather than by travelling to Pune, Maharashtra. It was submitted that the petitioner-wife will not be in a position to place the responsibility of the minor child, who is in a need of constant medical attention at the care of her parents or anybody else while she has to travel all the way from Ahmedabad to Pune for the purpose of contesting the divorce proceedings filed by the respondent-husband herein.

In the circumstances, I find that the petitioner-wife has made out a case for the order of transfer and accordingly, Matrimonial Case No. P.A. No. 1469 of 2019, pending before the Family Court Pune, Maharashtra is ordered to be transferred to the competent court at Ahmedabad, Gujarat. The said proceeding shall stand transferred and shall be clubbed along

with Cr. M.A. No. 738/2020 filed by the petitioner-wife herein under Section 125 of the Criminal Procedure Code and disposed of in accordance with law.

In the circumstances, this Transfer Petition is allowed and disposed of in the aforesaid terms. No costs.

It may be noted that on the transfer of the aforesaid proceedings to the Family Court at Pune, Maharashtra, both the aforesaid proceedings, shall be disposed of expeditiously.

It is needless to observe that the parties shall cooperate with the concerned Court for expeditious disposal of the matters.

.....J.
(B.V. NAGARATHNA)

New Delhi
18th May, 2022

ITEM NO.1613

COURT NO.11

SECTION XVI-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

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(MEDIATION REPORT RECEIVED.

IA No. 24050/2020 - EX-PARTE STAY

IA No. 24051/2020 - EXEMPTION FROM FILING O.T.

IA No. 19343/2022 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURESIA No. 101379/2020 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES)

Date : 18-05-2022 These matters were called on for hearing today.

CORAM :

HON'BLE MRS. JUSTICE B.V. NAGARATHNA

For Petitioner(s) Mr. Garvesh Kabra, AOR

For Respondent(s) Mr. Sanyat Lodha, Adv.
Ms. Anindita Mitra, AOR
Ms. Hima Bhardwaj, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The Transfer Petition is allowed in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

(NISHA KHULBEY)
SENIOR PERSONAL ASSISTANT

(signed order is placed on the file)

(NISHA TRIPATHI)
ASSISTANT REGISTRAR