

Shakuntala

IN THE HIGH COURT OF BOMBAY AT GOA

TRANSFER APPLICATION NO. 4 OF 2023

PASILLIA MASCARENHAS

... APPLICANT

Versus

TENYSON FRANSISCO

XAVIER CARDOZ.

...RESPONDENT

Mr. Balkrishna Sardessai, Advocate for the Applicant.

Mr. Donovan Fernandes, Advocate for the Respondent.

CORAM:- BHARAT P. DESHPANDE, J.

DATED :- 15th April, 2024

ORAL ORDER

1. Heard Mr. B. Sardessai, learned counsel for the Applicant and Mr. D. Fernandes for the Respondent.

2. This is an application for transfer of proceedings under Section 24 of the Civil Procedure Code, from Bicholim Court which is in North Goa to Vasco Court which is in South Goa.

3. The Applicant/Wife is staying at Vasco as per the address given in the present petition whereas the Respondent/Husband is staying at Dodamarg, Bicholim.

4. The Respondent filed a divorce petition at Bicholim Court whereas the Applicant has been staying at Vasco which is around 60 kms away.

5. Mr. B. Sardessai, learned counsel for the Applicant would submit that the Applicant is unable to attend the proceedings at Bicholim Court in view of the distance as well as for want of resources. He submits that the Applicant is looking after the minor child and there is no financial support from the Respondent.

6. Mr. D. Fernandes, learned counsel for the Respondent while disputing the facts would submit that first of all, the Applicant was working at Calangute and she was staying there, which is clear from her own complaint filed in the year 2021. He further submits that the Applicant when travels to her workplace, she would have no difficulty in attending the Court proceedings.

7. The Matrimonial Petition filed before the Bicholim Court shows the address of the present Applicant as New Vaddem, Vasco. This fact is not denied by the Respondent. The allegations made against each other for the purpose of matrimonial dispute cannot be looked into for deciding the present transfer application.

8. Even though, affidavit in reply is filed on behalf of the Respondent, as well as the affidavit in rejoinder is filed by the

Applicant, the only question before this Court is whether a case is made out for grant of transfer of the matter from the Court at Bicholim to Vasco Court.

9. First of all, the Applicant is staying alongwith her child at Vasco and it is difficult for her to attend the proceedings at Bicholim Court which is around 60 kms. Whereas, the Respondent/Husband will have no difficulty in attending the proceedings at Vasco. The Applicant is not gainfully employed at present and accordingly, it will be a financial burden for her to attend the Court proceedings which is at the distance of 60 kms from her residence.

10. The learned counsel for the Respondent while placing reliance in the case of ***Sushila Vs. Ravinder, 2014, SCC OnLine Punjab & Haryana 20674***, tried to submit that the grounds mentioned in the petition are devoid of merit.

11. In this matter and as found from the records itself that the Petitioner is staying at Vasco whereas Matrimonial Petition is filed at Bicholim Court. Therefore, in order to give proper opportunity to the Petitioner so as to defend the said proceedings, the matter needs to be transferred from Court at Bicholim to Vasco Court.

12. Petition stands allowed as per prayer clause (a). No order as to cost. Application stands disposed of in above terms.

BHARAT P. DESHPANDE, J.