NC: 2025:KHC-K:1058
CP No. 200056 of 2024

IN THE HIGH COURT OF KARNATAKA,

KALABURAGI BENCH

DATED THIS THE 14TH DAY OF FEBRUARY, 2025

BEFORE

THE HON'BLE MS JUSTICE J.M.KHAZI

CIVIL PETITION NO.200056 OF 2024

BETWEEN:

AISHWARYA,
W/O CHARALINGESHA KALAGUDI,
AGED ABOUT: 22 YEARS,
OCC: HOUSEWIFE,
R/O. BEVOOR, TQ. BAGALKOT,
DIST. BAGALKOT,
PRESENTLY AT TANGADAGI,
MUDDEBIHAL, DIST. VIJAYAPUR – 586 212.

…PETITIONER

(BY SRI. GOPALKRISHNA B. YADAV,ADVOCATE)

Digitally signed by SHIVALEELA DATTATRAYA UDAGI
Location: HIGH COURT OF KARNATAKA

AND:

CHARALINGESHA,
S/O HUCHCHAPPA KALAGUDI,
AGED ABOUT 35 YEARS,
OCC: GOVERNMENT SERVANT,
R/O. BEVOOR, TQ. BAGALKOT ,
DIST. BAGALKOT – 587 115.

…RESPONDENT

(RESPONDNET IS SERVED)

THIS CIVIL PETITION IS FILED UNDER SECTION 24 OF THE CPC, PRAYING TO TRANSFER THE MATRIMONIAL CASE NO.18/2024 PENDING BEFORE THE PRINCIPAL JUDGE FAMILY COURT AT BAGALKOT TO THE CIVIL COURT MUDDEBIHAL AND PASS ANY OTHER ORDER OR DIRECTION AS THIS HON'BLE COURT DEEMS FIT, IN THE FACTS AND THE CIRCUMSTANCES OF THE CASE, IN THE INTEREST OF JUSTICE AND EQUITY.

THIS PETITION, COMING ON FOR ADMISSION, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MS JUSTICE J.M.KHAZI

ORAL ORDER

(PER: HON'BLE MS JUSTICE J.M.KHAZI)

This petition is filed under Section 24 of the Code of Civil Procedure, 1908, by the wife, with a prayer to transfer M.C.No.18/2024 on the file of Principal Judge, Family Court, Bagalkot to the Court of Civil Court, Muddebihal.

2. The petitioner has contended that she is the legally weeded wife of respondent and their marriage was solemnized on 20.04.2020 at Bevoor of Bagalkot. At the time of marriage, dowry in the form of cash, house hold

articles, gold and clothes etc., were given. After 5-6 months respondent started harassing and ill-treating the petitioner for more dowry. He is not making for any provisions of her sustenance. Despite holding panchayat and advised by the elders, the harassment did not stop. On the other hand, respondent has filed petition seeking divorce making false allegations in M.C.No.18/2024 before the Principal Judge, Family Court, Bagalkot. Petitioner has filed Crl.Misc.No.320/2024 U/s 12 of Protection of Women From Domestic Violence Act, 2005 seeking maintenance and other reliefs before the Court of Civil Judge and JMFC, Muddebihal.

3. Petitioner is residing at Tangadagi which is at distance of 90 km. from Bagalkot. It is very difficult for the petitioner to travel to Bagalkot to attend the Court proceedings and also spend money for traveling and other expenses and hence the petition.

4. Though duly served notice, respondent has appeared and as such there is no resistance to the petition.

5. Heard the arguments and perused the records.

6. Thus, petitioner is seeking transfer of M.C. No.18/2024 pending on the file of Principal Judge, Family Court, Bagalkot to the Court of Civil Judge, Muddebihal where Crl.Misc.No.320/2024 filed under Section 12 of D.V.Act is pending on the ground it would be very inconvenient for her to attend the case at Family Court, Bagalkot in addition to spending amount for traveling. The claim of the petitioner that it would be inconvenient for her to travel to Bagalkot to attend the Court proceedings, both physically as well as financially cannot be disputed by the respondent. Of course it would also be inconvenient for the respondent to travel to Muddebihal, if the petition filed by him for divorce is transferred from Bagalkot to Muddebihal.

7. However, in the judgments, reported in ***(2001) 10 SCC 41*** in the matter of ***Sumita Singh vs. Kumar Sanjay and another*** and ***(2005) 12 SCC 237*** in the matter of ***Rajani Kishor Pardeshi vs. Kishor Babulal Pardeshi***, the Hon'ble Apex Court has held that in this type of matrimonial cases the inconvenience of wife has to be preferred over the inconvenience of the husband, especially when the litigation has been initiated by the husband.

8. Having regard to the facts and circumstances of the case and relying upon above two decisions of the Hon'ble Apex Court, this court is of the considered opinion that the inconvenience that would be caused to the petitioner is more, when compared to that of the respondent.

9. However, Crl.Misc.No.320/224 filed U/s 12 of the D.V.Act, 2005 is pending before Civil Judge & JMFC, Muddebihal. It is not having jurisdiction to decide the divorce petition filed by the respondent in

M.C.No.18/2024. Therefore, it is required to be transfer to the Court of Senior Civil Judge & JMFC, Muddebihal. Therefore, in order to make it convenient for both the parties and also to avoid conflicting decisions on contentious issues, it is also necessary to withdraw Crl.Misc.No.320/2024 on the file of Civil Judge & JMFC, Muddebihal and transfer the same to the Court of Senior Civil Judge & JMFC, Muddebihal and accordingly, the following;

ORDER

I. The petition filed under Section 24 of the Code of Civil Procedure is allowed.

II. The M.C.No.18/2024 on the file of Principal Judge, Family Court, Bagalkot is withdrawn and transferred to the Court of the Senior Civil Judge & JMFC, Muddebihal.

III. Similarly Crl.Misc.No.320/2024 pending on the file of Civil Judge & JMFC, Muddebihal is

withdrawn and transferred to Court of the Senior Civil Judge & JMFC, Muddebihal.

IV. The Court of the Senior Civil Judge & JMFC, Muddebihal, is directed to take the matters on record and proceed in accordance with law.

Sd/-
(J.M.KHAZI)
JUDGE

SMP
List No.: 1 Sl No.: 31