2026:BHC-AS:43444

Swapnil

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

MISC.CIVIL APPLICATION NO. 272 OF 2026

Deepika Jimesh Ranawat. …Applicant

Vs.

Jimesh Mahendra Ranawat and Ors. …Respondents

Mr. Sandeep C. Kekane a/w. Mr. Yasir A. Khan, Mr. Dhavan Shah, Ms. Saaksshi Singh, Mr. Nishant Kanse i/b. Mr. Pavan Mali for the applicant.

Ms. Manjula Rao, Senior Advocate a/w. Mr. Manmohan Amonkar, Mr. Saurabh Rajeshirke, Mr. Atharva Deve for respondent no.2.

CORAM : GAURI GODSE, J.

DATE : 23rd OCTOBER 2026

ORDER :

1. This application is filed by the wife under Section 24 of the Civil Procedure Code, 1908 (“CPC”), seeking transfer of Miscellaneous Application No. 269 of 2026 filed by the respondent/husband under Section 25 (2) of the Protection of Women from Domestic Violence Act, 2005 (“DV Act”) before the Magistrate Court at Andheri. The application seeks modification of the order dated 17th September 2022 passed in Criminal Appeal No. 241 of 2019 by the Sessions Court,

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Dindoshi.

2. The wife had initiated the DV proceedings before the Magistrate at Andheri. The said application was finally decided on 1st August 2019, and she was held entitled to Rs. 20,000/- per month towards rent for alternate accommodation, Rs. 20,000/- per month towards maintenance for her daughter, and Rs. 25,000/- per month for herself towards maintenance. The respondent challenged this order by filing an appeal before the Sessions Court at Dindoshi. The applicant also challenged the order for enhancement. Both appeals were decided on 17th September 2022, and the rent was increased to Rs.30,000/-, and the respondent was directed to pay maintenance of Rs.30,000/-. The respondent further challenged this order before this court; however, this court confirmed the orders by judgment dated 30th April 2024. The respondent challenged it further before the Apex Court. Before the Apex Court, a statement was made on behalf of the respondent that he does not wish to challenge the High Court's order on the issue of quantum. In view of the statement made on behalf of the respondent, it was clarified that the observations made by the High Court

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would not be treated as binding and final findings on merits in the other pending litigations. Accordingly, the SLP filed by the respondent was disposed of on 27th August 2024.

3. By Miscellaneous Application No. 269 of 2026, the respondent seeks modification of the maintenance and the rent amount granted in the DV proceedings, on the ground of changed circumstances. The applicant seeks to transfer the said modification application on the ground of inconvenience, hardship and also on the ground that in the Family Court the divorce proceedings, restitution of conjugal rights, and a counterclaim for maintenance are pending and thus similar evidence or facts would also be considered by the Family Court.

4. Learned counsel for the applicant submits that the notice issued by the learned Magistrate in the proceedings for executing the orders was challenged by the respondent by filing the petition in this court. This Court, vide order dated 16th April 2026, expedited the hearing of Miscellaneous Application No. 269 of 2026 and directed that it should be decided within six weeks. The time granted by the said order is further extended by this Court vide order dated 11th

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September 2026. He further submits that by order dated 19th June 2026 passed in Writ Petition No. 1180 of 2026, the proceedings before the Family Court are also expedited with directions that the same be disposed of within six months.

5. Learned counsel for the applicant submits that, in view of the strict time frame fixed by this Court by two separate orders, the applicant is virtually required to attend proceedings daily before the Magistrate as well as before the Family Court. The minor daughter is residing with the applicant and is presently pursuing her 10th standard, which is a crucial academic board year requiring strict discipline, sustained study hours, and consistent attendance. Hence, in such circumstances, the applicant is finding it very difficult to attend the time-bound proceedings before the learned Magistrate as well as before the Family Court.

6. Learned counsel for the applicant further submitted that since the modification application is filed on the ground of change in the circumstances with a prayer to cancel the order granting rent amount and the maintenance, the facts and the evidence would be interlinked with the proceedings before the Family Court as the respondent is seeking

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maintenance by filing the counter claim in the divorce petition. Learned counsel for the applicant, therefore, submits that, apart from the serious hardship caused to the applicant, it is inconvenient for her to attend both proceedings simultaneously, as both are directed to be decided within a time-bound frame.

7. Regarding the Family Court's jurisdiction to decide the modification application, learned counsel for the applicant relied upon the decision of this Court in ***Rohan Shah Vs. Nishigandha Shah***[1]***.*** He submits that this Court has taken a view that, considering the objective of the Family Court, there is no bar on the Family Court to try proceedings under the DV Act, and Section 26 of the DV Act empowers any Civil Court, including any Family Court, to grant reliefs under Sections 18 to 22 of the DV Act. He therefore submits that the application filed under sub-section (2) of Section 25 of the DV Act seeking modification of the order passed under Section 18 of the DV Act will have to be read as empowering the Family Court to grant reliefs under Section 18 of the DV Act, as contemplated under Section 26 of the DV Act.

8. He submits that, in ***Rohan Shah***, this Court took the

[1] **MCA No. 477 OF 2022**

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view that there is no specific bar on the Family Court to try proceedings under the DV Act, considering the objective of the Family Court. He, therefore, submits that if the Family Court has jurisdiction to decide the application under Section 18 of the DV Act, certainly the Family Court shall have jurisdiction to decide the application under sub-section (2) of Section 25 of the DV Act in which the prayer is made for modifying the order originally passed under Section 18 of the DV Act. Learned counsel for the applicant therefore submits that, considering this Court's view on the objective of the Family Court, an application under Section 25(2) of the DV Act would lie before the Family Court.

9. Learned counsel for the applicant also relies upon the decision of the Apex Court in ***N.C.V. Aishwarya Vs. A.S. Saravana Karthik Sha***[2]. He has specifically relied on paragraph 9 of the said decision, which deals with the principles for exercising the powers under Section 24 of the CPC. According to him, the Apex Court has taken a view that in matrimonial matters where the courts are called upon to consider the plea of transfer, the courts have to take into consideration the economic soundness of both the parties,

[2] **2022 SCC OnLine SC 1199**

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the social strata of the spouses and their behavioural patterns, their standard of life prior to the marriage and subsequent thereto and the circumstances of both the parties. He submits that the Apex Court has further held that, even in the prevailing socio-economic paradigm in Indian society, the wife's convenience must generally be considered while considering the transfer.

10. Learned counsel for the applicant therefore submits that the issue of jurisdiction cannot be a ground to refuse the transfer in view of this Court's decision in the case of ***Rohan Shah.*** Learned counsel for the applicant therefore submits that, considering the inconvenience and hardship faced by the applicant, coupled with the proceedings already pending before the Family Court, the application filed for modification be transferred to the Family Court.

11. Learned senior counsel for the respondent submits that the applicant, who is a practising advocate, consistently files applications before the Magistrate Court at Andheri for issuing distress warrants to implement the orders passed in her application. She submits that the applicant regularly appears in these proceedings and repeatedly files

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applications for issuing distress warrants. Hence, the ground of inconvenience would not be available to the applicant. She relied upon the submissions made by the respondent before the Sessions Court in an application filed by the respondent seeking modification of the earlier order. She submits that the respondent contended that such an application would be maintainable only before the learned Magistrate, in view of the definition of the term Magistrate under Section 2(i) of the DV Act. The Sessions Court disposed of the application as not maintainable and granted liberty to the respondent to file an appropriate application under Section 25(2) of the DV Act before the learned Magistrate. Accordingly, the respondent has preferred an application before the learned Magistrate.

12. Learned senior counsel for the respondent also relied on an application for adjournment filed by the respondent before the learned Magistrate, which was allowed with a direction that she was given a last chance to file the reply. She submits that only after the said order was passed on 19th September 2026 did the applicant file her reply before the learned Magistrate. She thus submits that the applicant has regularly attended the Magistrate Court; however, in view of

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the last chance granted by the Magistrate to file reply, the applicant has applied for transfer.

13. Learned senior counsel for the respondent raised an objection on the jurisdiction of the Family Court to decide the application for modification under Section 25(2) of the DV Act. She submitted that Section 26 of the DV Act permits any relief available under Sections 18 to 22 of the DV Act to be prayed for in any proceedings pending before the Civil Court or Family Court. However, Section 25 of the DV Act is not included among the reliefs available to the aggrieved party or the respondent under Section 26 of the DV Act. She submits that the learned Magistrate has decided the main application preferred by the respondent. Hence, so far as modification on the ground of changed circumstances is concerned, it would also lie only before the learned Magistrate in view of Section 25 of the DV Act.

14. To support her submissions that the application for modification must be decided by the same court that passed the earlier order, she relied on the decision of the Apex Court in ***Rakesh Malhotra Vs. Krishna Malhotra***[3]. In that case, the Apex Court considered whether, after granting permanent

[3] **Criminal Appeal No(s).246-247/2020**

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alimony under Section 25 of the Hindu Marriage Act, 1955, a prayer before the learned Magistrate under Section 125 of the Criminal Procedure Code, 1973 (“CrPC”), can be made over and above the permanent alimony. She relied upon the observations of the Apex Court thereby holding that since the basic order passed by the concerned court under Section 25(1) by its very nature, an order of modification/variation, an order of modification/variation can also be passed by the concerned court exercising power under Section 25(2) or 25(3) of the Hindu Marriage Act. She submits that the Apex Court held that in such matters, the wife would be entitled to full-fledged adjudication in the form of any challenge raised before a competent court under the Act or similar enactments. However, it is held that the reverse cannot be an accepted norm.

15. Learned senior counsel for the respondent therefore submits that the remedy for modification as provided under Section 25 (2) of the DV Act cannot be exercised by the Family Court by taking recourse to Section 26 of the DV Act, which empowers the Family Court to grant reliefs available under Sections 18 to 22 of the DV Act. She submits that

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Section 25 of the DV Act is not available for seeking relief before the Civil Court or the Family Court, as Section 26 of the DV Act specifically excludes it. Learned senior counsel for the respondent therefore submits that, for want of jurisdiction, the Family Court would not be empowered to decide the modification application under Section 25 of the DV Act. Hence, by exercising the powers under Section 24 of the CPC, the application for modification filed under Section 25(2) of the DV Act before the learned Magistrate, which is the competent forum, cannot be transferred to the Family Court, which would not have jurisdiction to decide the same. She, therefore, opposes the transfer of the application as prayed in this application.

16. I have considered the rival submissions of the parties. So far as the grounds raised regarding inconvenience are concerned, the situation claimed by the applicant regarding the minor daughter residing with her existed even when the applicant initiated the proceedings before the Magistrate under the DV Act. The applicant's residence, the court of the learned Magistrate and the Family Court are not far away from each other. The distance of both courts from the

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applicant's place of residence is not a pleaded ground of inconvenience.

17. So far as the orders passed by this Court expediting the proceedings of the modification application before the learned Magistrate and the separate order directing expeditious hearing in a time-bound frame of both proceedings before the Family Court are concerned, they were passed after hearing both parties. The divorce proceedings, the restitution of conjugal rights, and the counterclaim for maintenance have been pending before the Family Court since 2014, 2016, and 2026, respectively.

18. The application for modification was filed in January 2026. The order passed by this Court on 19th June 2026 directed expeditious hearing of the proceedings before the Family Court. Before filing the application for modification before the learned Magistrate, the respondent had also applied before the Sessions Court for modification, which was filed sometime in 2025. After the Sessions Court dismissed the application on 17th January 2026, in view of the liberty granted by the said order, the modification application was filed before the learned Magistrate. This

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Court granted the time-frame directions in different proceedings after hearing both parties. The scope of the proceedings pending in the family court differs from that of the modification application before the Magistrate. Hence, directions to decide the proceedings within a time-bound frame cannot be accepted as a reasonable and justifiable ground to exercise the discretionary powers under Section 24 of the CPC to transfer the DV proceedings to the Family Court.

19. Under Section 24 of the CPC, this Court may withdraw any proceeding and transfer it for trial or disposal to any court subordinate to it and competent to try or dispose of the same. Hence, before considering the prayer for transfer under Section 24 of the CPC, it is necessary to determine whether the court to which the proceedings are to be transferred is competent to try and dispose of the same. Thus, to determine the Family Court's competence to decide an application under Section 25(2) of the DV Act, it is necessary to consider Section 7 of the Family Courts Act, 1984, which grants jurisdiction to the nature of suits and proceedings specified under the Explanation. Section 7 (2) of

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the Family Courts Act grants the Family Courts jurisdiction exercisable by a Magistrate of the first class under Chapter IX of the CrPC relating to orders of maintenance of wife, children and parents, and such other jurisdiction as may be conferred on it by any other enactment.

20. Section 8 of the Family Courts Act deals with the exclusion of jurisdiction where the Family Court has jurisdiction. Section 8 excludes the jurisdiction of the District Court and subordinate Civil Court for suits and proceedings referred to in sub-section (1) of Section 7 of the Family Courts Act. It also excludes the Magistrate's jurisdiction in relation to such area to exercise powers under Chapter IX of the CrPC.

21. However, the legislature has not amended Sections 7 or 8 of the Family Courts Act regarding the learned Magistrate's jurisdiction to exercise the special powers conferred under the DV Act. Section 26 of the DV Act permits the aggrieved party or the respondent to seek reliefs under Sections 18 to 22 in the proceedings pending before the Civil Court or the Family Court. Thus, Section 26 of the DV Act is an enabling and supplementary provision that empowers the

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Family Court to grant reliefs available under Sections 18 to 22 of the DV Act in proceedings pending before it. As per the language used in Section 26 of the DV Act, it specifically provides that any reliefs available under Sections 18 to 22 of the DV Act may also be sought in any legal proceedings before the Civil Court, Family Court or the Criminal Court affecting the aggrieved person and the respondent. Thus, the enabling and supplementary provision under Section 26 of the DV Act entitles the aggrieved person and the respondent to seek reliefs available under the sections specified under Section 26 of the DV Act in any legal proceedings pending before the Family Court.

22. In ***Rohan Shah***, this Court held that the Family Court is not barred from trying proceedings under the DV Act, given the Family Court's objective. Hence, it is further held that Section 26 of the DV Act empowers any Civil Court, including the Family Court, to grant reliefs under Sections 18 to 22 of the DV Act. Hence, in the facts of that case, this court found it fit to transfer the DV proceedings under Sections 12 and 18 to 23 of the DV Act from the Magistrate's Court to the Family Court, where other proceedings were pending. Section 2(i)

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of the DV Act defines only the Judicial Magistrate of First Class or, as the case may be, the Metropolitan Magistrate in the specified area as the Magistrate under the DV Act. This Court, in the decision of ***Rohan Shah,*** has permitted transfer of DV proceedings to the Family Court in view of the remedy available under Section 26 of the DV Act; however, a transfer cannot be treated as an automatic statutory entitlement to transfer all proceedings pending before the learned Magistrate to the Family Court.

23. For considering whether the prayer under Section 24 of the CPC can be allowed, the parameters permissible under it must be satisfied. Thus, Section 26 of the DV Act, as an enabling and supplementary provision, cannot be interpreted to mean that the Family Court is the competent Magistrate under Section 2 (i) of the DV Act to try and decide the application under Section 25 of the DV Act.

24. The application for modification under Section 25 (2) of the DV Act has been filed seeking modification of the earlier orders passed by the Magistrate in the proceedings initiated by the applicant for grant of maintenance and the rent amount as alternate accommodation under the proceedings

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initiated under Section 18 of the DV Act. The present application for modification is on the ground of a change in circumstances, as permissible under sub-section (2) of Section 25 of the DV Act. Since the learned Magistrate passed the original order under the DV Act, the competent court to decide the application for modification under sub-section (2) of Section 25 of the DV Act is also the learned Magistrate, as defined under the DV Act. As held by the Apex Court in ***Rakesh Malhotra,*** the basic order passed by the concerned court would, by its very nature, exercise the powers of modification.

25. Thus, so far as the proceedings under the DV Act are concerned, it is based on the special jurisdiction conferred on the learned Magistrate as defined under the Act for exercising the powers under the DV Act, which also deals with the statutory period of 60 days as provided in sub-section (5) of Section 12 of the DV Act. Hence, the objective of speedy disposal, as prescribed under the DV Act, cannot be ignored even while considering the issue of the competent forum for deciding the application under Section 25(2) of the DV Act in the present case, where the Magistrate decided the

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original proceedings. The scope of proceedings pending before the Family Court seeking divorce, restitution of conjugal rights, and a counterclaim for maintenance will be considered on different aspects. The scope of Section 25 of the DV Act is not the same as the factors the Family Court would consider in the pending substantive proceedings.

26. The stage of the proceedings and the jurisdiction of both courts are the tests that must be satisfied to grant the transfer prayed for in the present application. For the reasons recorded in the above paragraphs, the applicant has not raised any justifiable and satisfactory grounds of hardship and inconvenience to exercise the discretionary powers under Section 24 of the CPC. Therefore, the Apex Court's decision in ***N.C.V. Aishwarya*** and this Court's decision in ***Rohan Shah*** would not be of any assistance to the applicant.

27. Although the Family Court is empowered to grant reliefs under the DV Act as specified under Section 26, Section 25 is not included among the reliefs provided under the enabling and supplementary Section 26. In view of the specific powers conferred upon the learned Magistrate under the DV Act, Section 26 of the DV Act, which is only an

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enabling provision, would, therefore, not be the criterion to transfer the modification application by ignoring the jurisdiction conferred upon the Family Court as per Section 7 of the Family Courts Act, 1984, when the original DV proceedings are decided by the Magistrate. Thus, in the absence of any specific jurisdiction conferred upon the Family Court to decide the application under Section 25 of the DV Act, the discretionary powers under Section 24 of the CPC cannot be exercised. Hence, the prayer made in the present application cannot be granted. The application is, therefore, dismissed.

28. It is clarified that the observations and findings recorded in this order are limited to the decision on the application under Section 24 of the CPC. Hence, the modification application pending before the learned Magistrate shall be decided on its own merits in accordance with law, uninfluenced by any observations in this order.

[GAURI GODSE, J.]

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