

	<p><u>ORDER BELOW EXH.NO.1 IN CRI. M.A. (T.P) NO. 89/2025.</u> <u>( Vitthalrao Vs. Shailja )</u> <u>CNR No. MHLA010051092025</u></p>
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Applicant has filed present application to transfer P.W.D.V.A. No. 60/2025, pending before 6<sup>th</sup> J.M.F.C. Latur to any other Court, as per provision of Section 448 of B.N.S.S.

2. Heard learned Adv. Shri. N. B. Badde for applicant and Shri. S.V.Mande for non-applicant. Perused the record, particularly application and say filed by non-applicant and orders passed by learned Trial Court below Exh.11 and 25.

3. It is the contention of applicant that mater was referred for mediation, during the said process non-applicant filed application below Exh.25 on 25.08.2025, in spite of oral request to the said Court not to decide said application till the final report of mediation, said court decided the application hurriedly, which is against policy of mediation process, due to the passing of said order, mediation was failed, which is sufficient to indicate that said Court is bias against the applicant, therefore, applicant is having apprehension that he will not get justice in the said Court, hence, said matter may be transferred to any other Court.

4. Whereas, it is the case of non-applicant that she is old aged lady of 64 years, applicant is harassing her by one way or other, applicant has suppressed material facts from this Court,

non-applicant has filed interim application below Exh. 11 for restoration of electricity supply and for providing electricity of separate sub-meter, applicant intentionally had disconnected electric supply of the whole house with a view to cause harassment and evacuate the non-applicant from shared household, due to the said act, non-applicant had to live without electricity for 13 months, applicant had not given written consent and other documents, which are required for separate connection, application below Exh. 25 is nothing but extension of application below Exh.11, learned Trial Court decided the said application after giving sufficient opportunity.

5. It is further contention of non-applicant that considering the age of both the parties, learned Trial Court referred the matter for mediation, though matter was referred for mediation, it does not automatically stop the proceeding and Court is not prevented from passing urgent orders, if so required, applicant has filed petition under 13A of Hindu Marriage Act to get divorce, applicant has played number of tricks to harass the non-applicant, disconnection of electricity supply is one of the ill intentional act of him, applicant has not provided life necessities to non-applicant since long, allegations made against applicant are false and baseless and rather amounting to contempt of Court, as application is frivolous and vexatious, same may kindly be dismissed with exemplary cost of Rs. 20,000/-.

6. Before appreciating facts of the present case it is

useful to see the few important judgments of Hon'ble Apex Court on the point of transfer of case from one court to another.

I] A three Judge Bench of the Hon'ble Supreme Court in case of *Nahar Singh Yadav and another vs. Union of India and others, 2011 (1) RCR (Criminal) 120*, has held as under:

"24. Thus, although no rigid and inflexible rule or test could be laid down to decide whether or not power under Section 406 of the Cr.P.C. should be exercised, it is manifest from a bare reading of sub-sections (2) and (3) of the said Section and on an analysis of the decisions of this Court that an order of transfer of trial is not to be passed as a matter of routine or merely because an interested party has expressed some apprehension about the proper conduct of a trial. This power has to be exercised cautiously and in exceptional situations, where it becomes necessary to do so to provide credibility to the trial.

II] A two Judge Bench of the Hon'ble Supreme Court in case of *Usmangani Adambhai Vahora Vs. State of Gujarat, 2016 (3) SCC 370* has held as under:

11. "..... The aforesaid passage, as we perceive, clearly lays emphasis on sustenance of majesty of law by all concerned. Seeking transfer at the drop of a hat is inconceivable. An order of transfer is not to be passed as a matter of routine or merely because an interested party has expressed some apprehension about proper conduct of the trial. The power has to be exercised cautiously and in

exceptional situations, where it becomes necessary to do so to provide credibility to the trial. There has to be a real apprehension that there would be miscarriage of justice. ...."

III] In a case of *Umesh Kumar Sharma vs. State of Uttarakhand &Ors., 2021(12) SCC 517*, the Hon'ble Supreme Court has held as under:-

20. " The above legal enunciations make it amply clear that transfer power under section 406 of the Code is to be invoked sparingly. Only when fair justice is in peril, a plea for transfer might be considered. The court however will have to be fully satisfied that impartial trial is not possible. Equally important is to verify that the apprehension of not getting a level playing field, is based on some credible material and not just conjectures and surmises.

21. While assurance of a fair trial needs to be respected, the plea for transfer of case should not be entertained on mere apprehension of a hyper sensitive person....."

7. Section 408 of Cr.P.C., 1973 encapsulates the statutory provision regarding the power of the Sessions Court to transfer cases and appeals from one Court to another within its jurisdiction and the equivalent provision contained in Section 448 of BNS, 2023.

8. An elementary reading of the above provision reflects that the legislature has anchored the Sessions Court's power of transfer of a criminal case upon the singular, broad spectrum criterion of being 'expedient for the ends of justice'. The power of

transfer is not an administrative routine, but a discretionary judicial function. The power of transfer is to be exercised sparingly and only in exceptional circumstances. Transfer of proceedings cannot be ordered on the basis of mere apprehension, surmises or dissatisfaction of a party with the manner in which the trial is proceeding.

9. While the right to an impartial trial is sacrosanct, it is equally imperative to recognize a disconcerting emerging trend, where the machinery of transfer is frequently weaponized to undermine the judicial independence. Litigants often misinterpret an adverse judicial order as an indication of inherent bias. Vexatious attempt by unscrupulous elements, aimed at misusing the process of law ought to be detested. The legislative intent is that the power of transfer is never reduced to a tool for 'forum shopping' but is reserved for cases where the impartiality of the trial is genuinely imperiled.

10. In the light of settled principle of law and observations made by Hon'ble Supreme Court, now let us see as to what material has brought on record by applicant to transfer the case.

11. On perusal of record it appears that learned Trial Court allowed application below Exh.11 on 10.07.2025 and directed applicant/husband Vitthal to give written consent for getting separate electric sub-meter and to do all the necessary things, required to restore electricity connection. Learned Adv.

N.B.Badde fairly concedes that applicant Vitthalrao has no grievance as far as order passed below Exh. 11 is concerned.

12. In view of above submission of learned advocate for applicant, it appears that grievance of applicant is about order passed below Exh.25 by the learned Trial Court. So, now let us see as to what order has been passed by the learned Trial Court below Exh.25. On perusal of order passed below Exh.25 by the learned Trial Court on 29.08.2025, it appears that learned Trial Court directed the applicant/husband Vitthalrao to provide the documents and amount for taking the electric sub-meter. So, it appears that said order is nothing but further extension of order passed below Exh.11.

13. It is pertinent to note that non-applicant Shailaja is old aged lady of 64 years. Electricity supply is one of the basic need for any human-being, in spite of specific order passed below Exh.11, he did not comply the said order in letter and spirit, hence, non-applicant Shailaja had to file further application below Exh. 25 before learned Trial Court. It is true that matter was referred for mediation, but that does not mean that learned Trial Court was prohibited to pass necessary orders, if so required. It is pertinent to note that learned Trial Court passed the order below Exh.25, after providing opportunity of hearing. On careful perusal of the said order, it appears that, there is nothing in the said order, which indicates any bias on the part of said Court against applicant. So, I do not find any substance to transfer the matter to

any other Court.

14. It is pertinent to note that mere passing of an unfavourable order, does not ipso facto establish a foundation for bias or prejudice. It appears that applicant could not bring anything on record to suggest that said presiding officer is bias against him. To cast aspersions on the judicial officer due to any unfavorable order, is unacceptable.

15. When this Court carefully examine allegations made against the judicial officer, in the light of observations made by the Hon'ble Apex Court, in the cases (cited supra), it appears that applicant has failed to place on record any cogent material to establish any likelihood of bias or prejudice on the part of Trial Court. On the contrary, it appears that applicant has made present application not only to harass to non-applicant old aged lady, but also to create pressure on the said judicial officer. Hence, present application needs to be dismissed.

16. Considering the conduct of applicant, it is useful to see the recent judgment passed by Hon'ble High Court of Punjab and Haryana in the case of *Dinesh Chand Bansal Vs. State of Haryana CRM-M-72601-2025 decided on 30 Jan. 2026*, in which Hon'ble High Court has made detailed order on the point of transfer petition by referring various judgments, in which Hon'ble High Court has given some principles and one of the principle is that

*"to prevent the abuse of process and the practice of forum shopping, the Sessions Court must strictly enforce the provisions of Section 408(3) Cr.P.C./448(3) BNS, imposing costs on any party preferring frivolous or vexatious transfer application."*

17. When I carefully go through the application, I come to the conclusion that applicant has made vexatious application and abused the process of law and hence, it is necessary to impose exemplary cost of Rs. 10,000/-, while rejecting the present application. Therefore, I proceed to pass the following order :

**ORDER**

1. Application stands rejected.
2. Applicant is directed to pay the cost of Rs. 10,000/- to non-applicant within period of 30 days from passing of this order.
3. If applicant fails to pay the cost, then learned Trial Court can adopt all legal recourse to recover the cost from applicant.
4. Inform the concerned Court accordingly.

Date: 09.04.2026.

( S.J. Bharuka )  
Sessions Judge, Latur.

"CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER".

N. V. Patil  
Stenographer (Grade-2)

Name of the Judge(With Court Room No.)	Shri. S.J. Bharuka, Sessions Judge, Latur. (22)
Date for pronouncement of Judgment/Order	09.04.2026
Judgment/Order signed by P.O. on	09.04.2026