

Court No. - 83

Case :- TRANSFER APPLICATION (CRIMINAL) No. - 542 of 2023

Applicant :- Smt. Divya Sharma

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Lovekush Kumar Mishra

Counsel for Opposite Party :- G.A.,Manoj Kumar Srivastava

Hon'ble Sanjay Kumar Pachori,J.

Supplementary affidavit filed today by learned counsel for the applicant, which is taken on record.

Sri Lovekush Kumar Mishra, learned counsel for the applicant, Sri Manoj Kumar Srivastava, learned counsel for the opposite party no. 2 and Sri Ashish Kumar Srivastava, learned A.G.A. for the State are present.

The present transfer application has been filed to transfer the Complaint Case No. 02 of 2022 (Smt. Divya Sharma Vs. Prashant Kumar) under Sections 12, 18, 19, 20, 22 of Protection of Women from Domestic Violence Act, pending in the Court of Judicial Magistrate/Civil Judge (Junior Division) Aligarh to any other competent Court of judgeship Kanpur Dehat.

Learned counsel for the applicant submits that the applicant is wife of the opposite party no. 2 and the marriage of the applicant was solemnized with the opposite party no. 2 on 25.11.2020. The applicant is residing in her matrimonial house at Agra and she could not aware about any court proceeding instituted by her husband against her.

On 18.04.2023 and 03.05.2023, the applicant moved applications before the Principal Judge Family Court, Aligarh for granting time to transfer the case, which have been rejected. The opposite party no. 2 threatened her with dire consequences.

Learned counsel for the opposite party no. 2 submits that the applicant has filed a Transfer Application (Civil) No. 471 of 2023 with regard to transfer of Case No. 376 of 2021 (Prashant Kumar Sharma Vs. Smt. Divya Sharma), under Section 11 of the Hindu

Marriage Act, which is pending in the court of Principal Judge Family Court, Aligarh, has been rejected by the Coordinate Bench of this Court in Transfer Application (Civil) No. 471 of 2023 on 29.11.2023, after observing that applicant use the transfer petition as a tool to harass the husband.

It is further submitted that that the applicant solemnized second marriage with the opposite party no. 2 without any divorce of her first husband. It is further submitted that the applicant is Assistant Professor in Saanskirt University, Aligarh.

In view of the above facts and circumstances of the case, the present transfer application has no merit and deserves to be dismissed.

The present transfer application is **dismissed** accordingly.

Order Date :- 14.12.2023

Ishan