

Reserved**Court No. - 13****Case :-** TRANSFER APPLICATION (CRIMINAL) No. - 100 of 2024**Applicant :-** Rishab Kumar Singh**Opposite Party :-** Smt. Vaishali Singh**Counsel for Applicant :-** Ripu Daman Shahi**Counsel for Opposite Party :-** Anurag Singh, Anurag Kumar Singh**Hon'ble Rajeev Singh, J.**

1. Heard learned counsel for the applicant and learned counsel appearing for the opposite party.
2. The present application has been filed with the prayer to transfer the Case No.118/2023 U/S 125 Cr.P.C. (*Smt. Vaishali Singh Vs. Rishab Kumar Singh*) arising out of Case Crime No.255 of 2023 under Sections 498A, 323, 504, 506 IPC and Section 3/4 of DP act, PS Kotwali City, District- Hardoi pending before the court of learned Principal Judge, Family Court, District- Hardoi to any other learned Principal Judge, Family Court of any nearby district.
3. Learned counsel for the applicant has submitted that marriage of applicant was solemnized with the opposite party on 28.04.2022 but the marriage could not be consummated, as a result, petition under Section 11/12 of Hindu Marriage Act was filed by the applicant on 23.09.2022 for dissolution of marriage before the Principal Judge, Family Court, Lucknow. Thereafter, due to annoyance, opposite party lodged FIR on 11.04.2023, bearing Case Crime No.255 of 2023 under Sections 498A,

323, 504, 506 IPC and Section 3/4 of DP act, PS Kotwali City, District-Hardoi against the applicant. In the said case, charge sheet was submitted by the Investigating Officer against the applicant and three other accused persons, thereafter, cognizance was taken by the trial court. He has further submitted that in the aforesaid case, three accused persons, namely, Shailendra Singh, Jyoti Singh and Riya Singh have already been granted regular bail by the Chief Judicial Magistrate, Hardoi. He has also submitted that the applicant was being threatened by one Saurabh Singh, son of Ram Bahadur Singh, resident of Khumripur, PS- Kotwali Dehat, District- Hardoi who is the associate of opposite party. As a result, the applicant moved an application before the Superintendent of Police, Hardoi on 05.12.2023 through registered post. He has further submitted that applicant also appeared before the Chief Judicial Magistrate, Hardoi for interim bail in the aforesaid case on 04.02.2024, thereafter, the associates of opposite party started threatening the applicant and his sister, then on the next date, the alleged incident was reported to the court of Chief Judicial Magistrate, Hardoi in writing through registered post. Again, on 22.03.2024, when the applicant appeared before the Chief Judicial Magistrate, Hardoi then he was threatened, thereafter, a complaint was made to the police by dialing at 112. On the said complaint, the police arrived and instructed the sister of applicant to file written complaint. He has further submitted that the applicant being in helpless situation, finds it difficult to attend the case in Hardoi. In such circumstances, Case No.118 of 2023 arising out of FIR No.255 of 2023

(*supra*) may be transferred from the court of Principal Judge, Family Court, Hardoi to nearby Judge ship of other district.

4. Learned counsel for the opposite party has vehemently opposed the prayer of applicant and submitted that the opposite party was being victimized by the applicant and his family members for demand of dowry even when the huge amount of money was already invested by father of opposite party in her marriage. He has further submitted that all the allegations made in the present application related to the threat are incorrect. As in case, any threat was given in the court of Chief Judicial Magistrate, Hardoi then why it was not reported to the court on the very day? He has further submitted that applicant filed Criminal Misc. Writ Petition No.3222 of 2023 challenging the aforesaid first information report wherein Division Bench of this Court was pleased to give interim protection to the applicant and other associates on 26.04.2023 on the submissions that petitioners have full hope that the matter can be settled amicably out of court. Thereafter, petitioner no.1(applicant) was directed to deposit a sum of Rs.1.00 Lakh within two weeks by way of bank draft, drawn in favour of Senior Registrar, Mediation and Conciliation Centre, High Court, Lucknow, out of which a sum of Rs.45,000/- would be payable to victim (opposite party) on her first appearance before the Mediation and Conciliation Centre of this Court and remaining amount, i.e. Rs.50,000/- would be payable to victim (opposite party) on completion of mediation proceedings between the parties. Remaining

amount of Rs.5000/- would go to the Mediation and Conciliation Center as mediation fee.

5. Order dated 26.04.2023 and 31.05.2023 passed by the Division Bench in Criminal Misc. Case No.3222 of 2023 are reproduced as under:

Order dated 26.04.2023

“Heard learned counsel for the petitioners, Ms Ruhi Siddiqui, learned A.G.A. for the State/respondents Nos.1 to 4 and perused the impugned F.I.R. as well as material brought on record.

It has been argued by the learned counsel for the petitioners that petitioner No.1 is the husband and petitioner No.2 is the mother-in-law of respondent No.5. Petitioner No.1 was got married with respondent No.5 on 28.04.2022 and soon thereafter because of temperamental differences, they fell out. The F.I.R. has been lodged only out of vengeance. Learned counsel for the petitioners further argues that petitioners have full hope that the matter can be settled amicably out of court. Therefore, the present matter may be referred to Mediation & Conciliation Centre of this Court.

Taking into account the statement of learned counsel for the petitioners, this Court pass the following order :-

(i) The petitioner No.1, who is the husband of respondent No.5, shall deposit a sum of Rs.1.00 Lakh within two weeks from today by way of bank draft, drawn in favour of Senior Registrar, Mediation and Conciliation Centre, High Court, Lucknow, out of which a sum of Rs.45,000/- shall be payable to victim/respondent No.5- Vaishali Singh, on her first appearance before the Mediation and Conciliation Centre of this Court and remaining amount, i.e. Rs.50,000/- shall be payable to victim/respondent No.5 - Vaishali Singh on completion of mediation proceedings between the parties. Remaining amount of Rs.5000/- shall go to the Mediation and Conciliation Center as mediation fee.

(ii) The petitioners are directed to take steps within a week.

(iii) The office, upon deposit of the Bank draft by the petitioner No.1, shall issue notice within a week to respondent No.5, Vaishali Singh (wife of petitioner No.1), calling upon her to appear in the Mediation and Conciliation Centre of this Court at Lucknow on a date to be indicated in the said notice stating therein that she shall be delivered the bank draft of Rs.45,000/- on her first appearance before the Mediation Centre on the date fixed.

(iv) Both the parties, i.e. petitioner No. 1 and respondent No.5, are directed to appear either on the date fixed or on a future date as may be agreed before the Mediation Centre for reconciliation.

(v) *It is clarified that the amount so deposited by the petitioner No.1 shall be adjusted in the final settlement arrive at between the parties, if any.*

(vi) *The Mediation and Conciliation Centre shall submit a report by the next date of listing.*

(vii) *List this case in third week of July, 2023.*

viii) *Till the next date of listing, petitioners - Rishab Kumar Singh and Smt. Jyoti Singh, shall not be arrested pursuant to the impugned FIR dated 11.04.2023, registered as FIR/Case Crime No.0255 of 2023, under Sections 498-A, 323, 504, 506 I.P.C. and Section 3/4 of the Dowry Prohibition Act, 1961, Police Station Kotwali City, District – Hardoi*

(ix) *It is made clear that in case there occurs default by the petitioners either in depositing the amount or in appearing before the Mediation Centre on the date or dates fixed, the interim order staying arrest shall cease to be operative and the Mediation Centre shall immediately communicate with the office, which, in turn, shall list the case within a week before the Bench concerned for passing appropriate order in the matter. ”*

Order dated 31.05.2023

“This petition has been listed under the heading of Chapter XII Rule 4 of the Allahabad High Court Rules, 1952.

Case called out.

None appears on behalf of the petitioners and no request for extension of time.

This Court has perused the office report wherein the petitioners have not deposited any amount towards Mediation and Conciliation Centre in compliance of this Court's Order dated 26.04.2023.

The writ petition is dismissed for want of prosecution.

Interim order, if any, stands vacated. ”

6. Learned counsel for the opposite party has further submitted that one case bearing Case No.3341 of 2022 which was earlier pending before the Principal Judge, Family Court, Lucknow has already been transferred to Hardoi by the Coordinate Bench of this Court in vide order dated 08.11.2024 Transfer Application (Civil) No.21 of 2024.

7. Order dated 08.11.2024 passed by this Court in Transfer Application (Civil) No.21 of 2024 is reproduced as under:

“1. Heard learned Counsel for the applicant and learned Counsel for the opposite party.

2. The present application under Section 24 of C.P.C. has been preferred by the applicant for transfer of Case No.3341 of 2022 (Rishabh Kumar Singh vs. Vaishali Singh @ Rishu) from the Court of Principal Judge, Family Court, Lucknow to the equivalent Court at District Hardoi.

3. Considering the inconvenience being faced by the applicant, the present application is allowed. The aforesaid case pending in the Court of Principal Judge, Family Court, Lucknow are transferred to the equivalent Court at District Hardoi. ”

8. Learned counsel for the opposite party has next submitted that the applicant is only willing to harass the opposite party by delaying the proceeding of prosecution of case in question as well as by filing different cases before this Court. In such circumstances, the present transfer application is liable to be dismissed considering the convenience of the opposite party being a victim.

9. Considering the submissions of learned counsel for the applicant as well as learned counsel for the opposite party, contents of application, other enclosures, affidavit filed by the opposite party as well as other relevant documents, as in the application, it is alleged that threat was given to the applicant in the court of Chief Judicial Magistrate, Hardoi on 04.02.2024, but admittedly, the said incident was not reported to the court immediately. As per the pleading, a complaint was given on the next date through registered post. As it is well settled by the Hon’ble Supreme Court that the convenience of the victim is to be seen by the court,

therefore, applicant failed to show any reasonable ground for transfer of the case. Therefore, the application is misconceived and liable to be dismissed.

10. Accordingly, the present transfer application is hereby **dismissed**.

Order Date :- 20.12.2024

V. Sinha