

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

**(i) TrP (C)No. 6/2026
CM No. 2289/2026 c/w**

*Date of Pronouncement: 07.07.2026.
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**Hitesh Salhotra
S/o Sh. Ramesh Chander,
R/o 163/3, Ekta Vihar, Kunjwani,
District Jammu.**

.... Petitioner/Appellant(s)

Through:- Mr.B. R. Chandan, Advocate

V/s

**Vishali Gupta
W/o Sh. Hitesh Salhotra
D/o Sh. Dwarka Nath Gupta,
R/o Ward No. 17, Opposite Sharma
Ice Cream Factory, Near Kabir
Nagar, Kathua.**

.....Respondent(s)

Through:- Mr. A P Singh, Sr. Advocate with
Mr. Nikhil Verma, Advocate.

**(ii) TrP (C) No. 2/2026
CM No. 674/2026**

**Vishali Gupta
W/o Sh. Hitesh Salhotra
D/o Sh. Dwarka Nath Gupta,
R/o Ward No. 17, Opposite Sharma
Ice Cream Factory, Near Kabir
Nagar, Kathua.**

....Petitioner/Appellant(s)

Through:- Mr. A.P. Singh, Sr. Advocate with
Mr. Nikhil Verma, Advocate.

V/s

**Hitesh Salhotra
S/o Sh. Ramesh Chander,
R/o 163/3, Ekta Vihar, Kunjwani,
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...Respondent(s)

Through:- Mr. B.R. Chandan, Advocate.

CORAM: HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE

ORDER (ORAL)
07.07.2026

1. The aforesaid cross-petitions have been filed by the parties, who are embroiled in a matrimonial dispute. The petitioner-husband, Hitesh Salhotra, had earlier instituted a petition under Section 13 of the Hindu Marriage Act, 1955, seeking a decree of divorce. The said petition is presently pending before the Court of the Additional District Judge (Matrimonial Cases), Jammu, where the respondent-wife has been regularly appearing. Subsequently, the respondent-wife, Vishali Gupta, initiated proceedings under Section 12 of the Protection of Women from Domestic Violence Act, 2005, which are presently pending before the Court of the Chief Judicial Magistrate, Kathua.
2. By way of the present transfer petitions, the petitioner-husband seeks transfer of the proceedings under the Protection of Women from Domestic Violence Act, 2005, from the Court of the Chief Judicial Magistrate, Kathua, to the Court of the Additional District Judge (Matrimonial Cases), Jammu. Conversely, the respondent-wife seeks transfer of the petition under Section 13 of the Hindu Marriage Act, 1955, from the Family Court at Jammu to a court of competent jurisdiction at Kathua.
3. Learned counsel for both parties were heard.
4. Learned counsel for petitioner-husband contends that, in view of Section 21A of the Hindu Marriage Act, 1955, proceedings under Section 13 of the Act, being matrimonial proceedings arising out of

the same marital relationship, ought to be tried within the same district to avoid multiplicity of proceedings and conflicting decisions.

5. It was further argued that Section 21A of the Hindu Marriage Act is a special provision having overriding effect over the general provisions governing transfer of proceedings. On that basis, learned counsel sought transfer of the petition instituted under Section 12 of the Protection of Women from Domestic Violence Act, 2005, from Kathua to Jammu.

6. **Sec. 21-A of Hindu Marriage Act 1955 provides for,**

“21A. Power to transfer petitions in certain cases.— (1) Where—

(a) a petition under this Act has been presented to a district court having jurisdiction by a party to a marriage praying for a decree for judicial separation under section 10 or for a decree of divorce under section 13, and

(b) another petition under this Act has been presented thereafter by the other party to the marriage praying for a decree for judicial separation under section 10 or for a decree of divorce under section 13 on any ground, whether in the same district court or in a different district court, in the same State or in a different State.

the petitions shall be dealt with as specified in sub-section (2).

(2) In a case where sub-section (1) applies,

(a) if the petitions are presented to the same district court, both the petitions shall be tried and heard together by that district court;

(b) if the petitions are presented to different district courts, the petition presented later shall be transferred to the district court in which the earlier petition was presented and both the petitions shall be heard and disposed of together by the district court in which the earlier petition was presented.

(3) In a case where clause (b) of sub-section (2) applies, the court or the Government, as the case may be, competent under the Code of Civil Procedure, 1908 (5 of 1908), to transfer any suit or proceeding from the district court in which the later petition has been presented to the district court in which the earlier petition is pending, shall exercise its powers to transfer such later petition as if it had been empowered so to do under the said Code”.

7. A plain reading of Section 21A makes it abundantly clear that the provision is attracted only where both spouses have instituted petitions under the Hindu Marriage Act, 1955, seeking either judicial separation under Section 10 or divorce under Section 13. Where such petitions are pending before the same District Court, they are required to be tried together. Where they are pending before different District Courts, the later petition is liable to be transferred to the Court in which the earlier petition is pending so that both may be heard and decided together.
8. In the present case, admittedly, only one petition under the Hindu Marriage Act has been instituted, namely, the petition filed by the petitioner-husband under Section 13, which is pending before the Court of the Additional District Judge (Matrimonial Cases), Jammu. The respondent-wife has not instituted any proceedings under the Hindu Marriage Act and has merely invoked the remedies available under Section 12 of the Protection of Women from Domestic Violence Act, 2005. In such circumstances, the provisions of Section 21A of the Hindu Marriage Act are clearly inapplicable and cannot be invoked.
9. Learned counsel appearing for the respondent-wife further contended that the Family Court at Jammu has no jurisdiction to entertain proceedings under the Protection of Women from Domestic Violence Act, 2005. Consequently, the relief sought by the petitioner for transfer of the proceedings under the Domestic Violence Act to the

Family Court at Jammu is legally untenable and deserves to be rejected.

10. Learned counsel for the petitioner has fairly conceded that the Family Court at Jammu lacks jurisdiction to entertain proceedings arising under the Protection of Women from Domestic Violence Act, 2005. Once that position is accepted, the only question that remains is whether the proceedings instituted by the respondent-wife before the competent Court at Kathua can nevertheless be transferred to any other Court at Jammu having jurisdiction under the Act. The answer to the said question must also be in the negative.
11. It is not in dispute that, prior to the marriage, the petitioner-husband was residing at Kunjwani, Jammu, whereas the respondent-wife was a resident of Ward No. 17, Nagri Road, Kathua. After the marriage, the parties resided together at Jammu. The respondent-wife has specifically pleaded in her petition under Section 12 of the Protection of Women from Domestic Violence Act, 2005, that she was employed at KV Public School, Jammu, during the subsistence of the matrimonial relationship. She has further pleaded that, owing to the conduct of the petitioner-husband and his family members, she was subjected to cruelty and was ultimately compelled to leave her matrimonial home. Having been left with no alternative, she shifted to her parental home at Kathua, where she has been residing since 27.10.2024.
12. The aforesaid pleadings have not been disputed or rebutted on behalf of the petitioner. It must also be borne in mind that the Protection of

Women from Domestic Violence Act, 2005, is a beneficial social welfare legislation enacted to provide more effective protection to women whose constitutional rights are violated on account of violence occurring within the domestic sphere. The remedies provided under the Act are remedial and beneficial in nature and, therefore, deserve to receive a liberal interpretation consistent with the object and purpose of the legislation.

13. In the aforesaid background, since the petitioner-husband is unable to take any advantage of Section 21A of the Hindu Marriage Act, his plea for transfer of the DV Act matter filed by the respondent-wife from Kathua to Jammu cannot also be considered because the same is under a Special Act and has nothing to do with the provisions of Section 21A of the Hindu Marriage Act. Both enactments operate independently. The petitioner-husband has failed to demonstrate as to how the pendency of the DV Act petition at Kathua is causing any hardship or prejudice to him, particularly when the fact remains that he himself initiated the divorce proceedings at Jammu, which the respondent-wife is already contesting.
14. The provisions of the Protection of Women from Domestic Violence Act are beneficial in nature and have been enacted to provide more effective protection to women. In that background, transfer of the respondent-wife's case to a Court at Jammu would cause greater prejudice and hardship to her than to the petitioner.
15. The petition filed by the respondent-wife seeking transfer of the Section 13 petition from Jammu to Kathua appears to be a

counterblast to the petition filed by the husband. A perusal of her petition reveals that the only ground urged for transfer is her alleged poor financial condition and unemployment. However, in the proceedings under the DV Act, she has pleaded that she was employed at KV Public School, Jammu, and that her husband compelled her to hand over her salary so as to exercise control over her earnings. This stand is inconsistent with the averments made in the transfer petition.

16. In these circumstances, no sufficient ground is made out for transfer of the petition from Jammu to Kathua. Likewise, the husband's plea for transfer of the DV Act proceedings to Jammu also fails to disclose any justifiable ground. Consequently, both the transfer petitions are ***dismissed***. Any interim direction, if operative, shall stand vacated. The respective Courts shall proceed with the petitions pending before them in accordance with law. Copy of order be notified to both Courts.

(Sanjay Parihar)
Judge

JAMMU
07.07.2026
Renu

Whether the order is speaking: Yes

Whether the order is reportable: No