

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CMPMO No. 140 of 2026

Date of decision: 06.08.2026.

Rajni Kumari	...	Petitioner.
Versus		

Ajay Kumar	...	Respondent.
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Coram:

The Hon’ble Mr. Justice Romesh Verma, Judge.

Whether approved for reporting?¹

For the petitioner : Mr. Prashant Sharma, Advocate.

For the respondent : Mr. Mukul Sood, Advocate.

Romesh Verma, Judge (Oral):

The present petition has been filed by the petitioner-wife for transfer of HM Misc. Petition No. 328 of 2024, titled as Ajay Kumar vs. Rajni Kumari, which has been instituted by the present respondent in the Court of learned Additional Principal Judge, Family Court, Palampur, District Kangra, H.P. to the Court of learned Additional Principal Judge, Family Court, Ghumarwin, District Bilaspur, H.P.

2. As per the case, as set up by the petitioner, the parties solemnized marriage on 18.11.2017 at VPO Samoh, Tehsil Jhandutta, District Bilaspur, H.P., according to the Hindu rites and ceremonies. There is no child from the said wedlock. It is the case of the petitioner that at the time of

¹ ***Whether reporters of Local Papers may be allowed to see the judgment?***

marriage, the present respondent was doing job in a private company as HR Executive.

3. It is the case of the petitioner that the respondent used to taunt the petitioner for bringing meager dowry and the respondent also used to beat and torture the petitioner on petty things. The respondent while working at Ludhiana, migrated to Dubai without disclosing the said fact to the petitioner and she came to know only on the previous day, when he was going to Dubai. When the said fact was brought to the notice of the mother of the respondent, she got agitated and started hurling abuses on her.

4. As per petitioner after shifting of the respondent to Dubai, the petitioner is residing all alone with her parents at Ghumarwin and in order to earn her livelihood, she is doing a private job at Ghumarwin. It is also the case of the present petitioner that the respondent has failed to maintain her and on that account, she was compelled to institute an application for grant of maintenance in the Court of learned Judicial magistrate, Ghumarwin in the proceeding under the Domestic violence Act.

5. The petitioner has approached this Court primarily on the ground that since the respondent has shifted to Dubai and in order to harass her, he has intentionally instituted the

petition under Section 13 (1) (ia) of Hindu Marriage Act, 1955 in the Family Court, Palampur, which is at a considerable distance of more than 90 km and it will be very difficult for her to travel to such a distant place and to attend the hearing. As per the case of the petitioner, she is totally dependent upon her parents and in order to maintain herself, she has been engaged in a private firm, but it is very difficult for her to maintain herself, as the respondent has totally failed to maintain her.

6. Lastly, it is contended by Mr. Prashant Sharma, learned counsel for the petitioner that in order to get the amount of maintenance, the present petitioner was constrained to institute the proceedings under Domestic Violence Act before the learned Judicial Magistrate, Ghumarwin. Therefore, on these grounds, the case for grant of maintenance and petition under Section 13 (1) (ia) of Hindu Marriage Act, 1955 for the dissolution of marriage be taken up at Ghumarwin.

7. The learned counsel for the respondent submitted that the present petition has been filed just to harass the respondent, as the distance between Palampur and Ghumarwin is less than 70 km and the petitioner can certainly come and attend the proceedings at Palampur. Even otherwise, she can join the proceedings by virtual mode and on every date, she

would not be called. It is further contended that in common parlance, the presence of the present petitioner is not required on each and every date of hearing.

8. Since the petitioner has filed the present petition primarily for transfer of petition filed by the husband under Section 13 (1) (ia) of Hindu Marriage Act, 1955, therefore, without touching the merits of the case, this Court shall proceed further to examine whether the prayer of the petitioner can be accepted.

9. While dealing with the issue of transfer of proceedings from one court to another in matrimonial matters, the convenience of wife is ordinarily to be preferred over the convenience of husband, in view of the mandate of the Hon'ble Supreme Court in ***Sumita Singh vs. Kumar Sanjay and another (2001) 10 SCC 41***, wherein it was held that in a case where the wife seeks transfer of the petition, then as against husband's convenience, it is the wife's convenience, which must be looked at.

10. In ***Rajani Kishor Pardeshi vs. Kishor Babulal Pardeshi (2005) 12 SCC 237***, it has been specifically held by the Hon'ble Supreme Court that in a case seeking transfer of the case at the instance of the wife, convenience of wife is the prime consideration.

11. While dealing with the application for transfer of proceedings in **Kulwinder Kaur alias Kulwinder Gurcharan Singh vs. Kandi Friends Education Trust and others (2008) 3 SCC 659**, the Hon'ble Supreme Court, after analyzing the provisions of Sections 24 and 25 of the Code of Civil Procedure, laid down certain broad parameters for transfer of cases and it was held as under:-

“23. Reading Sections 24 and 25 of the Code together and keeping in view various judicial pronouncements, certain broad propositions as to what may constitute a ground for transfer have been laid down by Courts. They are balance of convenience or inconvenience to the plaintiff or the defendant or witnesses; convenience or inconvenience of a particular place of trial having regard to the nature of evidence on the points involved in the suit issues raised by the parties; reasonable apprehension in the mind of the litigant that he might not get justice in the court in which the suit is pending; important questions of law involved or a considerable section of public interested in the litigation; “interest of justice” demanding for transfer of suit, appeal or other proceeding, etc. Above are some of the instances which are germane in considering the question of transfer of a suit, appeal or other proceeding. They are, however, illustrative in nature and by no means be treated as exhaustive. If on the above or other relevant considerations, the Court feels that the plaintiff or the defendant is not likely to have a “fair trial” in the Court from which he seeks to transfer a case, it is not only the power, but the duty of the Court to make such order”.

12. In ***Arti Rani alias Pinki Devi and another*** vs. ***Dharmendra Kumar Gupta (2008) 9 SCC 353***, the Hon'ble Supreme Court was dealing with a case where the wife had sought transfer of proceedings on the ground that she was having a minor child and it was difficult for her to attend the Court at Palamu, Daltonganj, which was in the State of Jharkhand and at a quite distance from Patna where she was now residing with her child. Taking into consideration the convenience of the wife, the proceedings were ordered to be transferred.

13. Similarly, in ***Anjali Ashok Sadhwani*** vs. ***Ashok Kishinchand Sadhwani AIR 2009 SC 1374***, the wife had sought transfer of the case to Bombay from Indore in Madhya Pradesh on the ground of inconvenience as there was none in her family to escort her to Indore and on this ground the proceedings were ordered to be transferred.

14. In ***Civil Appeal No.4894 of 2022 [arising out of SLP(C) No (s). 16465 of 2021]***, titled as ***N.C.V. Aishwarya versus A.S. Saravana Karthik Sha***, the Hon'ble Supreme Court has outlined the cardinal principles for considering prayer for transfer of proceedings, from one Court-place to another, in matrimonial matters, in following terms:-

“8. It is not disputed that the appellant is the resident of Chennai and that the appellant’s husband-respondent herein is the resident of Vellore and he is employed. The appellant who is 21 years old does not have any source of income of her own as she is not employed and is totally dependent on her parents for her livelihood. In order to attend the court proceedings of the case filed by her husband at Vellore she has to travel alone all the way from Chennai to Vellore as her parents are not in a position to accompany her on account of their old age. Secondly, the appellant has also filed a petition, H.M.O.P. No.1741 of 2021, for restitution of conjugal rights and another petition, M.C. Sr. No.672 of 2021, for her maintenance before the Family Court at Chennai.

9. The cardinal principle for exercise of power under Section 24 of the Code of Civil Procedure is that the ends of justice should demand the transfer of the suit, appeal or other proceeding. In matrimonial matters, wherever Courts are called upon to consider the plea of transfer, the Courts have to take into consideration the economic soundness of both the parties, the social strata of the spouses and their behavioural pattern, their standard of life prior to the marriage and subsequent thereto and the circumstances of both the parties in eking out their livelihood and under whose protective umbrella they are seeking their sustenance to life. Given the prevailing socioeconomic paradigm in the Indian society, generally, it is the wife’s convenience which must be looked at while considering transfer.

10. Further, when two or more proceedings are pending in different Courts between the same parties which raise common question of fact and law, and when the decisions in the cases are interdependent, it is desirable that they

should be tried together by the same Judge so as to avoid multiplicity in trial of the same issues and conflict of decisions.”

15. Taking into account the entirety of the facts and circumstances of the case and the cardinal principles as outlined by the Hon’ble Supreme Court, in **Sumita Singh, Rajani Pardeshi** and **N.C.V. Aishwarya’s** cases (supra), this Court is of considered view, that the present petition deserves to be allowed, for the reasons, that the petitioner is residing at Ghumarwin, which is at a considerable distance from Palampur and on account of hardship and financial constraints as have been depicted and shown in the petition, it will be in the interest of justice that the petition, which has been filed by the respondent/husband is transferred from Family Court, Palampur to the Family Court, Ghumarwin.

16. A similar issue, praying for transfer of proceedings from one Court to another, has been dealt with and answered in favour of the wife by this Court in **CMPMO No. 466 of 2020**, titled as **Monu vs. Rakesh Kumar**, decided on 26.07.2023, **CMPMO No.604 of 2023**, titled as **Manisha Thakur versus Akash Chauhan**, decided on 05.12.2023.

17. In view of the above discussions and the exposition of law, as laid down by the Hon’ble Supreme Court, the present

petition is allowed and the proceedings i.e. HM Misc. Petition No. 328 of 2024, titled as Ajay Kumar vs. Rajni Kumari, pending before the Court of learned Additional Principal Judge (Family Court), Palampur, District Kangra, H.P. are ordered to be transferred to the Court of learned Additional Principal Judge (Family Court) Ghumarwin, District Bilaspur, H.P. The parties shall appear before the Court of learned Additional Principal Judge (Family Court), Ghumarwin, on **27.08.2026**.

18. It is made clear that the learned Family Court, Ghumarwin, shall not issue any notice to the parties and they shall remain present on the date fixed before the said learned Family Court. The learned Family Court, Ghumarwin, shall proceed in the matter from the stage learned Family Court at Palampur was dealing with the case. Pending application(s), if any, also stands disposed of, accordingly.

(Romesh Verma)
Judge

8th August, 2026.
(kck)