

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CMPMO No. 191 of 2026

Date of decision: 17.08.2026.

Mitali Sharma ...Petitioner.

Versus

Shushank Sharma ...Respondent.

Coram:

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

Whether approved for reporting?¹

For the petitioner : Mr. T.S. Chauhan, Sr. Advocate
with Mr. Surya Chauhan,
Advocate.

For the respondent : Mr. Gurmeet Bhardwaj, Advocate.

Romesh Verma, Judge (Oral):

The instant petition has been filed by the petitioner for transfer of Execution Petition filed by her in Case No. 26 of 2023 under DV Act. Along with the petition, she moved an interim application which was allowed. For the execution of the interim maintenance, she filed execution petition under Sections 28 and 31 and the same was registered as Execution Petition (Criminal) No. 23 of 2024, titled as, Mitali Sharma vs. Shushank Sharma pending in the Court of learned Judicial Magistrate, Court No.5, Shimla.

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

2. The petitioner has approached this Court for the transfer of Execution Petition from the Court of Judicial Magistrate, Court No.5, Shimla to the Court of learned Judicial Magistrate, Solan.

3. It has been contended by the learned counsel for the petitioner that the parties solemnized marriage on 09.02.2022 as per Hindu rites and customs. It has been averred that after the marriage, the relation between the parties got strained and the family members of the respondent started taunting the petitioner.

4. It is the case of the petitioner that out of the wedlock, a child namely Riddit was born on 29.06.2023 at Solan. As per the case of the petitioner, earlier the respondent was serving at H.P. University, Shimla. However, he never provided any financial assistance to the petitioner and he used to give abuses and beating to the petitioner. It has been averred that after the child was born, the respondent refused to take care of the petitioner and even during pregnancy, he started harassing and disrespecting the petitioner for one or another reason. Further, it has been stated that the petitioner is totally dependent on her parents for the survival of her child and herself. Therefore, she has been constrained to institute the domestic violence proceedings and further filed execution

under Sections 28 and 31 of the Domestic Violence Act, 2005 to execute the interim order passed by the learned trial Court.

5. It has been stated that the petitioner is living with her parents at Solan and it is not feasible for her to go to Shimla and to come back Solan. Therefore, it has been prayed that the proceedings which have been initiated by the present petitioner herself may be ordered to be transferred to the Court of learned Judicial Magistrate, Solan, in the interest of justice.

6. On the other hand, the present petition has been vehemently opposed by the learned counsel for the respondent on the ground that the present proceedings have been initiated by the petitioner just to harass the respondent. It is contended by the learned counsel for the respondent that the petitioner herself had filed the execution petition along with the other proceedings under Section 125 Cr.PC at Family Court, Shimla.

7. It is contended by the learned counsel for the respondent that once the petitioner has chosen to institute two proceedings at Shimla herself, therefore, now at this stage, the present petition has been filed just to create unnecessary harm to the rights of the present respondent. He further submits that the petitioner had approached this Court by filing a CMPMO No.578 of 2025 for the transfer of the divorce proceedings which were initiated by the husband in the Court of learned

Principal Judge, Family Court, Shimla to the Court of learned Principal Judge, Family Court, Solan. The said petition was dismissed by this Court on 30.03.2026 and feeling aggrieved by the said order, the petitioner had approached the Hon'ble Apex Court by filing Special Leave to Appeal (C) No. 25234 of 2026, which came to be dismissed on 14.08.2026.

8. I have heard the learned counsel for the parties and have also gone through the case file carefully.

9. In the present case, primarily, the petitioner is seeking transfer of Execution Petition filed by her under Sections 28 and 31 of the Domestic violence Act, 2005, in Case No. 26 of 2023.

10. It is contended by the learned counsel for the petitioner that since the petitioner is residing at Solan, therefore, the aforesaid case may also be transferred to the Court of learned Judicial Magistrate at Solan.

11. The present petitioner is seeking transfer of Execution Petition which she herself had instituted at Shimla of her own. Apart from the present proceedings, she had also filed one case against the respondent under Section 125 Cr.PC, which is pending in the Court of learned Family Court Shimla. The divorce proceedings which have been initiated by the husband against the present petitioner is also pending before

the learned Principal Judge, Family Court, Shimla and for the transfer of the said case, she had approached this Court and vide order dated 30.03.2026, the said petition was dismissed and the Hon'ble Apex Court has affirmed the said findings. As the distance between Shimla to Solan is hardly 45 km, therefore, it cannot be presumed or it cannot be said that any prejudice or hardship shall be caused to the present petitioner while attending the cases at Shimla.

12. In view of the fact that the petitioner-wife herself has filed the proceedings at Shimla, now merely on her asking, the case cannot be transferred to the Court of learned Judicial Magistrate at Solan. This Court does not find any reason for transfer of the case as has been sought by the petitioner. Therefore, no relief can be granted in the attending facts and circumstances of the case to the petitioner.

13. It is made clear that in case petitioner makes a request for attending the court proceedings through virtual mode, the learned trial Court shall pass appropriate orders.

14. With the above observations, this Court does not find any merit in the present petition and the same is accordingly dismissed. Pending applications, if any, also stand disposed of.

15. Any observations made herein-above shall not be taken as an expression of opinion on the merits of the main case and the same shall be adjudicated upon uninfluenced by any observations made here-in-above, which are only for the purpose of the instant petition.

(Romesh Verma)
Judge

17th August, 2026.
(kck)