

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CMPMO No. 189 of 2026

Date of decision: 17.08.2026.

Mitali Sharma & another ...Petitioners.

Versus

Santosh ...Respondent.

Coram:

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

Whether approved for reporting?¹

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

For the respondent : Mr. Gurmeet Bhardwaj, Advocate.

Romesh Verma, Judge (Oral):

The present petition has been filed for the transfer of the case which has been filed by the present respondent under the provisions of Domestic Violence Act in the Court of learned JMIC, Court No.5, Shimla to the Court of learned Judicial magistrate, Kandaghat, District Solan, H.P.

2. It has been contended in the petition that the petitioner-wife got married to Shushank Sharma, son of the present respondent and the marriage was solemnized on 09.02.2022 as per the Hindu rites and customs.

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

3. As per the petitioner-wife, initially for few months, the relations between the parties were smooth. However, later on the present respondent along with her son started taunting the petitioner. As per petitioner, out of the wedlock, a child namely Riddit was born on 29.06.2023 at Solan. The son of the respondent never provided any financial assistance to her and he used to give beating when both the parties got a chance to live together.

4. It is the case of the petitioner that she received a notice from the Court of learned Judicial Magistrate First Class, Court No.5, Shimla, whereby petition under the provisions of Domestic Violence Act, 2005 has been instituted by the respondent against the present petitioner. It is the case of the petitioner that she is totally dependent on her parents and she cannot travel to Shimla which is at a considerable distance from Kandaghat, where she is residing permanently. It has further been stated that the son of the present respondent has preferred a petition under Section 13 of the Hindu Marriage Act, titled as, Shushank Sharma vs. Mitali Sharma for dissolution of the marriage, which is pending before the learned Family Court, Shimla. Therefore, it has been prayed that the present proceedings which have been initiated by the

respondent, being the mother-in-law, under Domestic Violence Act may be ordered to be transferred from the Court of JMIC, Court No.5, Shimla to the Court of learned Judicial Magistrate, Kandaghat, District Solan.

5. The petition has been vehemently resisted by the learned counsel for the respondent. He submits that the petitioner herself has instituted proceedings at Shimla. Therefore, now she cannot approbate and reprobate by stating that the cases may be transferred to Solan. He submits that the present respondent was being tortured by the present petitioner, therefore, she was constrained to initiate proceedings in the Court of learned JMIC, Court No.5, Shimla. He further submits that the present petition is not maintainable as the petitioner herself had filed two different proceedings i.e. under Section 125 of the Cr.PC and under the Domestic Violence Act at Shimla. Therefore, now she cannot be permitted to take conflicting stand by herself filing two petitions against the son of the present respondent and now when the respondent has instituted the proceedings, she is seeking the transfer of the same to the Court of learned Judicial Magistrate, Kandaghat.

6. Learned counsel for the respondent has also drawn the attention of this Court, whereby in an earlier CMPMO which was filed by the present petitioner for transfer of the divorce proceedings having been instituted by the son of the present respondent in the Court of learned Principal Judge, Family Court, Shimla to the court of learned Principal Judge, Family Court, Solan, which came to be dismissed on 30.03.2026. Thereafter, the petitioner had approached the Hon'ble Apex Court against the said order and vide its order dated 14.08.2026, the Hon'ble Apex Court dismissed the SLP as filed by the present petitioner.

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

8. As fairly conceded by the learned counsel for the parties, the petitioner herself has instituted two cases i.e. under Section 125 of Cr.PC and under the Domestic Violence Act, 2005 against the son of the respondent at Shimla. The present respondent, who is the mother-in-law of the present petitioner, alleging threats/intimidation, filed the proceedings invoking the provisions of the Domestic Violence Act by filing the case in the Court of Judicial Magistrate First Class, Court No.5, Shimla. Once the petitioner herself has filed two other

cases at Shimla, now it does not lie in her mouth to say that she shall be facing difficulty to travel to Shimla from Kandaghat.

9. Even otherwise, as rightly pointed out by the learned counsel for the respondent, the distance from Kandaghat to Shimla is hardly 30 km. Therefore, in the considered opinion of this Court, no hardship shall be caused to the petitioner in case the prayer of the present petitioner is not accepted. Rather, it is the respondent being an old lady who shall suffer hardship in case the petition is ordered to be transferred to the Court at Kandaghat. The petitioner has failed to make out the case for the transfer of the case from the Court of JMFC, Court No. 5 to Judicial Magistrate, Kandaghat, as the distance between two stations cannot be said to be of high magnitude.

10. This Court does not find any reason to transfer the case from the Court of Judicial Magistrate First Class, Court No. 5, Shimla to JMFC, Kandaghat. However, it is made clear that in case a request is made by the petitioner to appear through video conferencing, the learned Court below shall take appropriate steps in that regard.

11. With the aforesaid observations, the present petition

stands dismissed. Pending applications, if any, also stand disposed of.

12. Any observation 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)