

IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

CMPMO No. 387/2026

Decided on: 19.08.2026

Neha

.....Petitioner

Versus

Ajay Sharma

...Respondent

Coram:

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

*Whether approved for reporting?*¹

For the Petitioner: Mr. Parikshit Sharma, Advocate.

For the Respondent: Mr. Ajay Kumar Dhiman, Advocate.

Romesh Verma, Judge (oral)

The instant petition has been filed by the present petitioner/wife for the transfer of petition No. 73/2026, titled as Ajay Sharma vs. Neha, as filed by the respondent/husband under Section 13(1)(ia)(ib) of Hindu Marriage Act, for dissolution of marriage, in the Court of learned Additional Principal Judge (Family Court), Hamirpur to the Court of learned Principal Judge (Family Court), Solan, H.P.

¹Whether reporters of the local papers may be allowed to see the judgment? Yes.

2 Brief facts of the case are that the marriage inter se the parties was solemnized on 23.09.2017 at Solan, H.P. It has been averred in the instant petition that after solemnization of the marriage, the respondent did not discharge his matrimonial duties and she was left in lurch. On account of desertion on the part of the respondent, the petitioner is in grave mental pain and agony and her high hopes and dreams to have a normal matrimonial life stand destroyed by the willful cruel acts of the respondent. The petitioner tried to reconcile the matter and accepted hostile and cruel behaviour of the respondent, but despite best efforts, behaviour of the respondent became more cruel and rude. As per the petitioner, the respondent has failed to discharge his social, moral, pious and ethical matrimonial duties towards the petitioner.

3 As per petitioner, taking undue advantage and to manipulate the facts, the respondent has filed the aforesaid petition for dissolution of marriage against the petitioner on the ground of cruelty and desertion. It has been further averred in the petition that earlier, the respondent had filed a petition under Section 9 of the Hindu Marriage Act for restitution of conjugal rights at Hamirpur and the petitioner was constrained to file petition being CMPMO No. 614/2024 before this Court, seeking therein transfer of the case from Hamirpur to Solan,

which came to be disposed of by this Court vide order dated 04.12.2025, Annexure P-2.

4. It has been contended by the petitioner that she is a permanent resident of Solan and it is very difficult for her to come to Hamirpur to attend each and every hearing as it is at considerable distance of about 100 kms from Solan. The petitioner is residing with her old age and ailing mother and her financial condition is also not very good as she is totally dependent upon her mother. Therefore, under such circumstances, she has sought indulgence of this Court for transfer of petition under Section 13 (1) (ia) (ib) of the Hindu Marriage Act, as aforesaid.

5 Learned counsel for the respondent has opposed the aforesaid prayer of the petitioner on the ground that the instant petition has been filed just to harass the respondent and to create multiplicity of litigation and no relief can be granted to the petitioner in view of the fact that she can certainly travel and come to Hamirpur as the distance between Solan and Hamirpur is only 100 Kms which is not of considerable magnitude. He has further submitted that the petitioner can avail benefit of video conferencing. Therefore, he has sought dismissal of the instant petition being devoid of any merit.

6 Since the present petition has been filed primarily for transfer of petition for dissolution of marriage, therefore, without touching merits of the case, this Court shall proceed further to examine whether prayer of the petitioner can be accepted.

7 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 v. 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.

8 ***In Rajani Kishor Pardeshi v. 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.

9 While dealing with the application for transfer of proceedings in ***Kulwinder Kaur alias Kulwinder Gurcharan Singh v. 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.

10 ***In Arti Rani alias Pinki Devi and another v. 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.

11 Similarly, in **Anjali Ashok Sadhwani v. 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.

12 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."

13 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 a permanent resident of Solan, whereas the respondent has filed the petition for dissolution of marriage before the Court of learned Additional Principal Judge (Family Court), Hamirpur, which is at a considerable distance of more than 100 kms from Solan. The petitioner has also averred in the petition that the respondent has failed to maintain her and she is totally dependent upon her old age and ailing mother and thus, it is difficult for her to travel to such a distant place.

14 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 versus Rakesh Kumar***, decided on 26.07.2023 and ***CMPMO No.604 of 2023***, titled as ***Manisha Thakur versus Akash Chauhan***, decided on 05.12.2023.

15 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. petition No. 73/2026, titled as Ajay Sharma vs. Neha, under Section 13(1)(ia)(ib) of Hindu Marriage Act, pending before the Court of learned

Additional Principal Judge (Family Court), Hamirpur are ordered to be transferred to the Court of learned Principal Judge (Family Court) Solan. The parties shall appear before the Court of learned Principal Judge (Family Court) Solan, District Solan on **02.09.2026**.

16 It is made clear that the learned Family Court, Solan, shall not issue any notice to the parties and they shall remain present on the date fixed before the learned Family Court. The learned Family Court, Solan, shall proceed in the matter from the stage learned Family Court at Hamirpur was dealing with the case.

17 At this stage, learned counsel for the respondent has submitted that appropriate direction may be issued to the learned Family Court, Solan to expedite the matter. The respondent can make such request to the concerned Court for expeditious trial of the case.

18 Pending application(s), if any, also stands disposed of, accordingly.

19th August, 2026
(*pankaj*)

(Romesh Verma)
Judge