

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CMPMO No.370 of 2026

Date of decision:09.09.2026

Pooja Sharma ...Petitioner

Versus

Arvind Kumar ...Respondent

Coram:

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

Whether approved for reporting?¹

For the petitioner : Mr. Saurav Rattan, Advocate.

For the respondent : Mr. Ashish Kumar, Advocate.

Romesh Verma, Judge (oral):

The instant petition has been filed by the present petitioner-wife for the transfer of the divorce petition filed by the respondent-husband in the Court of the learned Principal Judge (Family Court), Rampur Bushahr to the Court of the learned Principal Judge (Family Court), Solan.

2. The facts, as emerge in the present case, are that the parties got married on 26.06.2020. There is no issue out of the said wedlock. The petitioner is working as a copyist in the office of the Civil Judge-cum-Judicial Magistrate, Court No. 2, Kasauli, whereas the present respondent is working as a Naib Nazir in the office of the Civil Judge-cum-Judicial Magistrate, Court No. 1, Anni, District Kullu, H.P.

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

3. The present petition has been filed for the transfer of the divorce proceedings from the Court of the learned Principal Judge (Family Court), Rampur Bushahr to the Court of learned Principal Judge (Family Court), Solan, on the ground that the present petitioner is residing at Solan and she is working in the Court of Civil Judge-cum-Judicial Magistrate, Court No. 2, Kasauli.

4. It has been contended by the learned counsel for the petitioner that it is very difficult for the wife-petitioner to travel a considerable distance of more than 160 kilometres on each and every date. He further submits that it would not be appropriate for a lady/petitioner to travel all alone without the aid and assistance of anyone at Rampur Bushahr which is a totally new place for her. He submits that, in order to transfer the divorce proceedings, the convenience of the wife has to be seen in view of the dictum of law as laid down by the Hon'ble Apex Court. Therefore, it would not be possible for her to travel alone and attend each and every hearing at Rampur Bushahr.

5. The instant petition has been resisted by the present respondent on the ground that the petitioner is a government employee and there is no hardship for her to travel from Solan to Rampur Bushahr. He submits that since the divorce proceedings have matured and it is fixed for the evidence of the present petitioner, now at this stage, the present petition has been filed just to prolong the litigation and to drag the respondent into uncalled for litigation. It is

contended by learned counsel for the respondent that the benefit of video conferencing can be granted to the petitioner and the present petition, being devoid of any merit, deserves to be rejected.

6. The instant petition has been filed primarily for the transfer of the divorce proceedings. Therefore, without touching the merits of the case, this Court shall proceed further to examine whether the prayer of the petitioner can be accepted.

While dealing with the issue of transfer of proceedings from one Court to another in matrimonial matters, the convenience of the wife is ordinarily to be preferred over the convenience of the husband, in terms 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 the husband's convenience, it is the wife's convenience which must be looked at.

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

8. While dealing with the application for transfer of the proceeding in ***Kulwinder Kaur alias Kulwinder Gurcharan Singh vs Kandi Friends Education Trust and others, (2008) 3 SCC 659***, the Hon'ble Supreme Court, after analysing the provisions of Sections 24

and 25 of the CPC, has laid down the broad parameters for the 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.”

9. 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 the proceeding on the ground that she was having a minor child, and it was difficult for her to attend the Court at Palamu, which was in the State of Jharkhand and at a quite considerable distance from Patna,

where she was residing with her child. Taking into consideration the convenience of the wife, the proceedings were ordered to be transferred.

10. 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 that ground the proceedings were ordered to be transferred.

11. In **Civil Appeal No. 4894 of 2022, titled N.C.V. Aishwarya vs A.S. Saravana Karthik Sha**, the Hon'ble Supreme Court has outlined the cardinal principles for considering the prayer of transfer of the proceedings from one Court to another in matrimonial matters in the following manner:

“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 High Court of H.P 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.”

12. Taking into account the entirety of the facts and circumstances of the case and the cardinal principles of law as outlined by the Hon'ble Supreme Court in the **Sumita Singh, Rajani Pardeshi, and N.C.V. Aishwarya cases (supra)**, this Court is of the considered opinion that the present petition deserves to be allowed, for the reason that the petitioner is residing at Solan and the distance from Solan to Rampur Bushahr is more than 160 kilometres and it takes more than 8 hours to travel to the said place. Further, it has been argued by the learned counsel for the petitioner that the petitioner

does not have any other source and any other help so as to travel to Rampur Bushahr. It is the case of the petitioner that, being a lonely lady, it will be unsafe for her to travel such a considerable distance.

13. Taking into consideration the fact that the petitioner is residing at Solan and she is working at Kasauli, it will be appropriate that the proceedings which have been initiated by the respondent-husband before the learned Principal Judge (Family Court), Rampur Bushahr are ordered to be transferred to the Court of the learned Principal Judge (Family Court), Solan.

14. A similar issue praying for the 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 **Monu vs Rakesh Kumar**, decided on 26.06.2023, **CMPMO No. 604 of 2023**, titled **Nisha Thakur vs Akash Walia**, and **CMPMO No. 175 of 2026**, dated 15.06.2026, titled **Babita Kumari vs Rajinder Prasad**.

15. In view of the above discussion and the exposition of the law as laid down by the Hon'ble Apex Court, the present petition is allowed and the proceedings in HMA No.211 of 2024, titled Arvind Kumar vs. Pooja Sharma, pending before the Court of the learned Principal Judge (Family Court), Rampur Bushahr, are ordered to be transferred to the Court of the learned Principal Judge (Family Court), Solan, District Solan. The parties are directed to appear before the

Court of the learned Principal Judge, Family Court, Solan, on
29.09.2026.

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 the learned Family Court, Rampur Bushahr, was dealing with the case in hand.

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

(Romesh Verma)
Judge

9th September, 2026
(vt)