

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

TPC No. 19 of 2015

1. Smt. Neha Jain W/o Shri Sourabh Jain, aged about 29 years, R/o E-100 Urja Nagar Tamnar Thana Tahsil and Jila Raigarh Chhattisgarh Hal Mukam S-14 Hilvyu Colony Distt. Raigarh Chhattisgarh

---- Petitioner

Versus

1. Sourabh Jain S/o Shreyash Jain, aged about 30 years, R/o Power House Road Korba Thana Tehsil and Distt. Korba Chhattisgarh

---- Respondent

For Petitioner – Shri K.K. Khatri and Shri V.K.Mishra, Advocates.
For Respondent – Shri Ashutosh Shukla, Advocate.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order on Board

09/09/2015

1. By this order transfer petition (civil) filed by the petitioner seeking transfer of Civil Suit No. 104-A/2014 (Sourabh Jain v. Smt. Neha Jain) under Section 13 of the Hindu Marriage Act, 1955 (in short 'the Act, 1955) for dissolution of marriage by a decree of divorce pending before the Court of Judge, Family Court, Korba, C.G. to the Family Court, Raigarh is being disposed of.
2. As per facts of the transfer petition (civil), the petitioner and the respondent/husband are wife and husband. The respondent filed a suit for dissolution of marriage by a decree of divorce which is pending before the Judge, Family Court Korba, C.G. The petitioner also filed an application under Section 9 of the Act, 1955 for restitution of conjugal rights which is pending before the Judge, Family Court Raigarh, C.G. as case No.138-A/2014 (Smt.

Neha Jain v. Shri Sourabh Jain) for the appearance of the respondent. The petitioner and the respondent both are working; the petitioner is working as Dietician in Jindal Fortis Hospital and residing at Hill View Colony, Patrapali, P.O. J.S.P.L., District Raigarh and the respondent is an Engineer by profession working in Jindal Power Plant, Tamnar and residing at Urja Nagar, Raigarh though the respondent hails from Korba, C.G. The petitioner once subjected for assault and *maarpeet* by mother and sister of the respondent for which she lodged FIR before Darri police. Police registered the FIR under Sections 294, 506, 323/34 and after investigation filed a State case pending against the mother and sister of the respondent before the Judicial Magistrate First Class, Katghora. She has to face inconvenience for attending the proceedings before Korba Court; also she is threatened on account of previous incident as she is living at Raigarh, the Civil Suit No.104-A/2014 be transferred from Korba to competent jurisdiction of Raigarh.

3. No any written response/reply was filed on behalf of the respondent.

4. Heard finally.

5. On behalf of the petitioner, learned counsel supported the grounds taken in the transfer petition and further submitted that as one litigation under Section 9 of the Act, 1955 pending before Raigarh Court. Both are working in Jindal, Raigarh and also the incident happened. There is inconvenience for attending the Court at Korba. Therefore, the suit abovementioned be transferred from Korba to Raigarh.

6. Learned counsel for the respondent submitted that the respondent is working as Engineer in Jindal Power Plant in Raigarh District. On behalf of the respondent, it is admitted that a criminal case is pending against his mother and sister but further submitted that he also filed a complaint before Darri police against the petitioner and her father, also before the Collector for the

same, but no any prosecution or any other proceeding has been initiated by police or the Collector. On 30-07-2015 in Civil Suit No.104-A/2014 the petitioner was granted Rs.600/- as travelling expenses (no any document has been filed on this behalf). It is further submitted that as the respondent has to take his father for treatment regularly to Mumbai, sister of the respondent is residing at Bangalore, a false complaint is leveled against him. Learned counsel for the respondent further submitted that the petition may be dismissed as not maintainable.

7. For the purposes of appreciation regarding the prayer, the documents and the application filed are perused.

8. From close scrutiny of the entire material as surfaced, the petitioner and the respondent are wife and husband; the respondent filed Civil Suit No.104-A/2014 under Section 13 of the Act, 1955 for dissolution of marriage by a decree of divorce pending before the Judge, Family Court Korba; the petitioner also filed a Suit bearing No.138-A/2014 under Section 9 of the Act, 1955 for restitution of conjugal rights pending before the Judge, Family Court Raigarh; the petitioner is Dietician in Jindal Fortis Hospital and residing at Hill View Colony, Patrapali, P.O. J.S.P.L., District Raigarh, the respondent is working as Engineer in Jindal Power Plant, Tamnar and residing at Urja Nagar, Tamnar, District Raigarh; at the complaint filed by the petitioner, Darri police registered Crime No.11/14 under Sections 294, 506 and 323/34 of the IPC against the mother and the sister of the respondent and as admitted a criminal case is pending before the Judicial Magistrate First Class, Katghora, District Korba, C.G.; on due consideration, since both are working in regular job within the jurisdiction of Raigarh, C.G., one more litigation of the similar nature, i.e, for restitution of conjugal rights pending before the Judge, Family Court Raigarh, there are instance for the alleged incident against the petitioner said to be

committed by close relatives, petitioner is a woman and as both of them are residing for their employment within Raigarh jurisdiction, it would be appropriate to transfer the civil suit pending before Korba to Raigarh.

9. Consequently, on entire consideration of the facts, the transfer petition (c) is liable to be allowed, hence, the transfer petition (civil) filed by the petitioner is hereby allowed and it is ordered that Civil Suit No.104-A/2014 (Sourabh Jain v. Smt. Neha Jain) under Section 13 of the Act, 1955 pending before the Judge, Family Court Korba be withdrawn and transferred to the Judge, Family Court Raigarh for its trial/disposal in accordance with law. The Judge, Family Court Korba, C.G. is hereby directed to transmit immediately the concerned record towards the Judge, Family Court Raigarh, C.G., for further proceedings.

10. No order as to cost.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE

