

HIGH COURT OF CHHATTISGARH, BILASPUR**Transfer Petition (C) No.29 of 2015**

Smt. Jagriti @ Ranu Ambilkar, aged about 27 years, W/o. Naveen Ambilkar, R/o. 49, near Shankar Mandir, Police Station Fafadih, District Raipur (CG)

---- **Petitioner**

Versus

Naveen Ambilkar, aged about 31 years, S/o. Tikamchand Ambilkar, Occupation Kirana Dukan, Swami Chowk, near Beej Bhandar, Mahasamund, Tahsil & District Mahasamund (CG)

---- **Respondent**

Shri Hemant Kesharwani, counsel for the petitioner.
Shri Vikash Pradhan, counsel for the respondent.

Order On Board**22/9/2015**

By this order the transfer petition (civil) filed by the petitioner seeking transfer of Civil Suit No.26A/14 (Naveen Ambilkar vs. Smt. Jagriti @ Ranu Ambilkar) under Section 13 of the Hindu Marriage Act, 1955 for dissolution of marriage by a decree of divorce pending in the Court of Judge Family Court, Mahasamund to the Family Court Raipur is being disposed of.

2. As per the facts of the present petition, marriage of the petitioner and the respondent was solemnized on 01.02.2008 at Bagbahera, and there is no any issue out of their wedlock. The petitioner is presently residing at Raipur and at the time of filing the written statement before the Court below, the petitioner was residing at Bagbahera along with her parents and thereafter due to poverty of the parents of the petitioner she went to Raipur for her livelihood. Being a lady, she is not in a position to travel from time to time to appear before the Family Court, Mahasamund to contest her case and Mahasamund is about 60 km from Raipur, she has no source of income and totally depend upon the maintenance amount. When the petitioner appeared

before the Court below, the respondent and other fellows taunted and threatened her. The respondent is a local resident pressurizing her to settle the matter in favour of the respondent. Hence it is prayed that matter pending before Family Court, Mahasamund be transferred in the interest of justice.

3. Heard learned counsel for the parties and perused the matter.

4. Learned counsel for the petitioner elaborately supported the ground taken in the petition and submitted that as facts and circumstances mentioned in the petition, petition may be allowed and the concerned civil suit may be transferred accordingly.

5. Per contra, learned counsel for the respondent submitted that as per the matter pending before Court below, the petitioner was residing at Bagbahara at the time of filing of the petition, notice issued to the petitioner by the Court on 19.6.2014 almost a year back and when she left for Raipur is not mentioned. MJC under Section 125 of the Cr.P.C. filed by the petitioner was dismissed by the Family Court Mahasamund on 24.6.15 and thereafter the petitioner filed the criminal revision before this Court which is numbered as Cr. Rev. No.542/15. In the said criminal revision the petitioner gave the address of her resident as at Baghbahera. She was granted maintenance of Rs.500/- under Section 24 of the Hindu Marriage Act in the petition filed under Section 13 of the Hindu Marriage Act. Distance from Mahasamund to Raipur is not 60 km. Learned counsel for the respondent denied other grounds taken by the petitioner and submitted that as the petitioner failed to made out the case to transfer the matter from Mahasamund to Raipur, the petition may be dismissed.

6. For the purpose of appreciation of the arguments advanced on behalf of the parties, I have perused the material available and the arguments submitted by the parties.

7. On perusal of Annexure-P/1, it appears that address of the petitioner is mentioned as Bghbahera. In the instant petition at para 5 it is nowhere mentioned regarding date, month and year on which she shifted to Raipur. Though during the arguments it was submitted that the petitioner is presently residing in separate house and doing labour job, but in para 12 of the petition it is mentioned that the petitioner only depends upon the amount of maintenance. These facts are contrary to each other and also there is no any arguments to rebut arguments as advanced on behalf of the respondents that in criminal revision filed before the High Court as Criminal Revision No.542/15, the petitioner mentioned her address as of Baghbahera, Distt. Mahasamund. Looking to the facts mentioned in the petition and the facts argued by learned counsel for the respondent, non mentioning of the date, month and year of shifting of the petitioner to the Raipur and also the facts that the petitioner is not a permanent resident of Raipur and also the petitioner has not stated the entire facts relevant for the petition, in the considered view of this Court, this is not a fit matter where prayer of the petitioner for transfer of the case from Mahasamund to Raipur be allowed. Consequently, the petition is dismissed. No order as to cost.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE