

HIGH COURT OF CHHATTISGARH, BILASPUR

TPC No. 38 of 2015

- Smt. Preeti Sahu W/o Hemant Kumar Sahu, aged about 31 years,
R/o near Gaurachuara, Tikrapara, Dhamtari, Distt. Dhamtari (CG)

---- Petitioner

Versus

- Hemant Kumar Sahu, S/o Shri Bahur Ram Sahu, aged about 35
years, R/o Sikolabhata, Prem Nagar, Durg, Tahsil and Distt. Durg (CG)

---- Respondent

For Petitioner	:	Mr. Hemant Kesharwani, Advocate
For Respondent	:	Mr. Anoop Majumdar, Advocate

Order On Board

2-11-2015

1. By this order, Transfer Petition (Civil) filed by the petitioner for transfer of Civil Suit No. 525-A/2013 (Hemant Kumar Sahu -v- Smt. Preeti Sahu) (new No. C.S. No. 570-A/14 pending in the Court of 2nd Additional Principal Judge, Family Court, Durg (CG) under Section 13 of the Hindu Marriage Act for dissolution of marriage by a decree of divorce to the Court of Judge, Family Court, Dhamtari is being disposed of.
2. As per facts of the case in brief, the petitioner and the respondent married on 21-5-2010 as per Hindu rituals. After subsequent development, respondent had filed a petition for dissolution of marriage by a decree of divorce which is pending before the court below. The petitioner is a woman working as Shiksha Karmi Grade -1 at Rudri, Distt. Dhamtari. Her father has passed away and mother is ailing. No one is there to escort her for Durg to attend the hearing. There is a distance of 80 km. between Dhamtari and Durg. No proper conveyance is available to attend the hearing at Durg. It is further prayed that the petitioner is suffering from illness. Hence the petitioner prayed that the petition may be allowed and the aforementioned civil suit be transferred from Family Court, Durg to Family Court, Dhamtari.
3. Respondent has not filed reply to the petition. Petition is opposed

orally.

4. Heard both the parties.
5. Learned counsel for the petitioner supported the grounds taken in the petition and submitted that there is inconvenience to the petitioner for her appearance before the Court below at Durg. Learned counsel further submits that on the basis of the grounds taken in the petition, the petition may be allowed and the concerned civil suit may be transferred from Durg Court to Dhamtari Court.
6. Per contra, learned counsel for the respondent submitted that the court below permitted the petitioner to be represented and assisted through a legal expert i.e. amicus curiae under the provisions of Section 13 of the Family Court Act. Respondent is working in a private job. There are regular bus services and road transport available from Dhamtari to Durg. As the petitioner is working as Shiksha karmi Grade-1, she does not have any financial constraint. There is no complaint regarding threat or any other incident of misbehavior from the respondent during hearing or otherwise. The petitioner filed instant transfer petition only when her prayer under Section 24 of Hindu Marriage Act for maintenance pendente lite was rejected by the court below. He further submits that looking to entire facts, the petitioner failed to prove requirement under Section 24 of the Code of Criminal Procedure for transfer of suit.
7. In order to appreciate the arguments advanced by respective parties, I have perused the documents filed along with petition.
8. On a close scrutiny, it emerges that the petitioner and the respondent are legally wedded wife and husband, their marriage was solemnized on 21-5-2010 at Dhamtari. They are still issueless. The respondent had filed petition under Section 13 of the Hindu Marriage Act for dissolution of marriage through a decree of divorce which is pending before 2nd Additional Principal Judge, Durg. The petitioner is working as Shiksha Karmi Grade -1 i.e. Lecturer at Rudri, Dhamtari. The respondent is earning his bread through a private job. There is no allegation levelled against the respondent regarding any threat or misbehavior by the

petitioner. Distance between Dhamtari and Durg is nearly 80 km and as the petitioner has been permitted to be assisted through amicus curiae, she need need to appear on each and every date of hearing. Even other wise, the petitioner seems to be in a better position as regards earning. On entire consideration of the facts, in the considered opinion of this Court, the petitioner has failed to demonstrate any proper and acceptable ground for transfer of the suit, though in par 10 the petitioner pleaded about taunt and threat by respondent for once but he failed to demonstrate whether he lodged any report or complaint before any police station. She is an educated lady working as lecturer with government, she can very well send a written complaint to concerned police station or to concerned superintendent of police for any offence alleged to be committed against her. Merely levelling allegation without any corroboration may not inspire confidence for the moment.

9. Considering the entire facts and circumstances of the case, the petitioner has failed to prove its case. The transfer petition fails and is hereby dismissed.
10. No order as to costs.

Sd/-
Chandra Bhushan Bajpai
Judge