

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

TPC No. 10 of 2015

1. Smt. Roshni Rajput W/o Manoj Rajput, aged about 28 years, at present resident of C/o Father Prabhat Singh Rajput, Police Constable Village Than-khamariya, Police Station Than-Khamhariya, Tahsil & Distt. Bemetara C.G.

---- Petitioner

Versus

1. Manoj Rajput S/o Geeta Singh Rajput, aged about 29 years, R/o Singhdai Chowk, Mohara, Ward No. 41, Police Station Basantpur, Tahsil & Distt. Rajnandgaon .C.G.

---- Respondent

For Petitioner – Shri Ashish Gupta, Advocate.
For Respondent – Shri Parag Kotecha, Advocate.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order On Board

17/04/2015

(1) By this order transfer petition (Civil) filed by the petitioner/applicant seeking transfer of civil suit No. 105A/14 (Manoj Rajput v. Smt. Roshni Rajput) filed under Section 13 of the Hindu Marriage Act for dissolution of marriage by a decree of divorce pending before the Judge, Family Court, Rajnandgaon, C.G. to the Court of Judge, Family Court, Bemetara, C.G., is being disposed of.

(2) As per the facts of the transfer petition, the petitioner and the respondent married on 21-05-2010 with Hindu rituals. Out of their wedlock they are having no issue (child). Upon development of incident, the respondent filed a petition under Section 13 of the Hindu Marriage Act for dissolution of marriage by a decree of divorce which is on initial stage and is pending as abovementioned at Rajnandgaon. The petitioner is a house-wife, not doing job for her livelihood. Rajnandgaon is about 120 kms. away from the place of the

petitioner. She is residing in her maternal house. Her grand-mother is about 85 years old, there is no one to take care of her grand-mother, it is inconvenient for the petitioner to remain present during hearing of the case pending at Rajnandgon. On these two grounds, the petitioner prayed that the aforesaid civil suit be transferred from Rajnandgaon to Bemetara.

(3) On the other hand, the respondent filed reply for the application under Section 24 of the CPC wherein he denied the grounds taken by the petitioner and submitted that distance from Thankhamhariya is only about 100 kms. and if someone travels from Gandai, the distance is merely 85 kms. As per information, to take care the grand-mother of the petitioner, one brother and one sister are available. It is also submitted that the petitioner filed one Misc. Case under Section 125 of the Cr.P.C. at Durg Court which was already disposed of awarding maintenance in favour of the petitioner. On the basis of First Information Report made on behalf of the petitioner, the respondent and his family members are facing trial before the Judicial Magistrate First Class, Rajnandgaon under Section 498A/34 of the IPC along with Section 4 of the Dowry Prohibition Act as crime No.236/2010 registered at Basantpur police station, Rajnandgaon. If the petitioner/applicant can take part in that criminal case pending at Rajnandgaon, there may be no inconvenience for attending the family court. Hence, it is submitted that the application/petition may be dismissed as not maintainable.

(4) Heard both the parties.

(5) Learned counsel for the petitioner duly supported the transfer petition and the grounds taken in the petition and submitted that on the basis of the grounds taken by the petitioner, the case mentioned above be transferred from Rajnandgaon to Bemetara.

(6) On the other hand, learned counsel for the respondent duly supported the reply filed on behalf of the respondent and submitted that there is no scope

for transfer, hence, on the basis of the reply and the grounds taken in the reply , the petition may be dismissed.

(7) In order to appreciate the arguments advanced on behalf of the parties, I have perused the material available on record.

(8) Upon minute scrutiny, it is undisputed that the petitioner and the respondent are legally wedded wife and husband having no issue (child). Their marriage solemnized on 21-05-2010. The petitioner is presently residing in her maternal house along with her family members at Thankhamhariya, not engaged in any job or profession and is depending upon her father. It is also not disputed that the respondent is not doing job, residing at Rajnandgaon and he has filed a petition for dissolution of marriage by a decree of divorce pending before the Family Court, Rajandgaon.

(9) For the distance from Thankhamhariya to Rajnandgaon, no supporting document was furnished by either the parties. Looking to the entire submission on this, we may hold that the distance is between 85 to 120 kms. The petitioner filed a petition under Section 125 of the Cr.PC. before the Durg Court, is also not assailed by the petitioner, though the said proceedings are disposed of. It is also not disputed that Basantpur police registered offence under Section 498A/34 of the IPC and Section 4 of the Dowry Prohibition Act against the respondent and his family members, as per reply of the respondent, which is pending before the Judicial Magistrate First Class, Rajnandgaon. Father of the petitioner/applicant is shown as Police Constable posted at Thankhamhariya, as per array of the cause title. The ground for the transfer taken by the petitioner as there is nobody to look after her grand-mother and regarding the distance which was countered by the respondent that other family members are available to look after and as communication through road is available and as she had already filed petition under Section 125 of the Cr.P.C. before the Durg Court, goes to show that the petitioner has not proved the grounds and looking

to the entire facts and circumstances, I do not find it appropriate to transfer the case from Family Court, Rajnandgaon to Family Court, Bemetara.

(10) Consequently, the application/transfer petition ought to be and is hereby dismissed as not maintainable.

(11) No order as to cost.

Sd/-

(C.B.Bajpai)
JUDGE

