

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Transfer Petition (C) No. 33 of 2015**

Smt. Anshu Gulati W/o Shri Ashish Gulati, aged about 38 years
R/o 306, Taigore Nagar, Raipur, Tahsil & District Raipur, Civil
Revenue & District Raipur, Chhattisgarh.

---- Petitioner**Versus**

Ashish Gulati S/o Shri N.L. Gulati about 42 years, R/o 25 Sunder
Nagar, Bhilai, District Durg, Chhattisgarh.

---- Respondent

For Appellant	:	Shri S.I. Ali, Advocate.
For Respondent	:	Shri A.D. Kuldeep, Advocate.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order on Board****14/09/2015**

(1) Heard on admission.

(2) By this order, Transfer Petition (Civil) filed by the Petitioner seeking transfer of Civil Suit No. 296 of 2015 (Ashish Gulati vs. Smt. Anshu Gulati) under Section 13 of the Hindu Marriage Act, pending before Principal Judge, Family Court, Durg, Chhattisgarh to the Court of Principal Judge, Family Court, Raipur, Chhattisgarh is being disposed of.

(3) As per facts of the transfer petition, the Petitioner and the Respondent are wife and husband and their marriage was solemnized on 22.4.2004 as per Hindu rituals and customs. Out of their wed-lock, two sons have born, presently both are with the Petitioner and they are studying in 5th standard and 2nd standard. The Petitioner is in a Government job teaching in Higher Secondary School, Tilagaon, Block

Abhanpur which is 50 kms away from her residence at Raipur. She used to travel every working day for about 100 km for going and returning from the place of her job. She has to take care of her two children who are studying in Krishna Public School, Raipur and the Respondent is also not giving any maintenance to her and children. She used to attend before the Family Court, Durg for hearing of the case and the economic condition of the Petitioner is not so good. She used to travel from Raipur to Durg which consumes a lot of time and expenses. On the date of hearing, the Respondent used to talk with her in abusive language and also threaten her for dire consequences. On the basis of the above grounds, the Petitioner prays that the aforesaid case filed under Section 13 of the Hindu Marriage Act for dissolution of marriage by a decree of divorce be transferred from Durg to Raipur in the interest of justice.

(4) Learned Counsel for the Petitioner vehemently supported the grounds mentioned in the petition and submitted that on the basis of the facts and circumstances mentioned in the petition, the petition may be allowed and the concerned civil suit may be transferred accordingly.

(5) On the other hand, Learned Counsel for the Respondent, opposing the petition, submitted that the Petitioner has failed to demonstrate any appropriate ground for transfer of the aforementioned case from Durg to Raipur. Hence, he prayed that the petition may be dismissed.

(6) I have heard Learned Counsel for the parties. For the purposes of appreciation of the arguments advanced on behalf of the parties, I have perused the material available on record.

(7) On a close scrutiny, it emerges that both the parties are legally wedded husband and wife and their marriage was solemnized on 22.4.2004 at Raipur. Out of their wedlock, they blessed with two sons studying in 5th and 2nd standards and are presently staying with the Petitioner. The Petitioner is a government teacher in a Higher Secondary School. She has to make to and fro journey of total about 100 kms everyday for attending her job.

(8) The Respondent filed a case under Section 13 of the Hindu Marriage Act for dissolution of marriage by a decree of divorce which is pending before the Principal Judge, Family Court, Durg. Notice dated 26.6.2015 of the petition has been served on the Petitioner. It is submitted that except the above-mentioned case, no litigation is pending between the parties or ever tried or is decided.

(9) So far as the issue of non-payment of any maintenance by the Respondent to the Petitioner is concerned, the Petitioner has not disclosed whether she ever filed any maintenance case against the Respondent before any Court of law and if any case was filed by her, what is the result of the said litigation. As submitted earlier, no litigation whatsoever has been filed for maintenance by the Petitioner, but looking to the present job of the Petitioner, though she has not specifically mentioned the name of the post held by her, it may be presumed that as she is teaching in a Higher Secondary School, her status may be equivalent to the Lecturer.

(10) From perusal of Civil Suit No.296 of 2015, it reveals that it was filed by the Respondent in the month of June, 2015. However, till date, it

has not been brought on record whether the Petitioner with regard to grant of maintenance filed any application under Section 24 of the Hindu Marriage Act, which goes to show *prima facie* that the Petitioner is not willing to pursue for grant of maintenance.

(11) So far as distance from Durg to Raipur is concerned, the same is about 40 kms. If the Petitioner is in a position to travel everyday 100 kms to and fro to attend the place of her job why she cannot attend the hearing at Durg which is about 40 km. In view of this, I am unable to accept the contention made in this behalf. So far as the alleged abusive language and threatening her of dire consequences are concerned, it is nowhere mentioned in the instant petition that whether she has lodged any complaint or report before any of the police station or ever informed this fact to the trial Court. The same allegations without any substantive evidence, cannot be considered as ground for transfer of the civil suit.

(12) After appreciation of the entire facts and circumstances of the case as the Petitioner is working as a teacher in the Government Higher Secondary School and the children are not of a tender age and also as they are already studying in Krishna Public School, Raipur, I do not see any ground for allowing the instant Transfer Petition (Civil) for transfer of aforementioned Civil Suit No. 296 of 2015 from Durg to Raipur.

(13) Consequently, the instant Transfer Petition (Civil) is hereby dismissed.

(14) No order as to costs.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE