

HIGH COURT OF CHHATTISGARH, BILASPUR

TPC No. 70 of 2016

- Smt. Pushplata Shukla W/o Shri Rambahor Shukla, aged about 48 years R/o Darripara, Near Jail Talab, Dr. Rajendra Prasad Ward Ambikapur, Thana & Tahsil-Ambikapur, Civil & Revenue Distt. Surguja (CG)

---- Petitioner

Versus

- Rambahor Shukla S/o Shri Ram Kailash Shukla, aged about 50 years By Caste-Bramhan, Occupation- Service In Health Department, R/o Bhaiyathan, Thana & Tahsil- Bhaiyathan, Civil & Revenue District Surajpur (CG)

---- Respondent

For Petitioner:
For Respondent:

Shri Sunil Sahu, Advocate
Shri Ravindra Sharma, Advocate.

Hon'ble Shri Justice Pritinker Diwaker

Order On Board

13/12/2016

1. With the consent of the parties, the matter is heard finally.
2. The petitioner herein is the wife of the respondent. Marriage of the parties was solemnized on 21.2.1985 and out of the wedlock, the couple has three daughters aged about 28, 23 & 18 years respectively and out of which, two daughters are residing with the petitioner in Ambikapur. It is the case of the petitioner that on account of cruelty committed upon her by the respondent, she was compelled to leave her matrimonial home and live with her parents at Ambikapur. On 29.9.2016 the petitioner-wife filed an application under Section 125 (3) Cr.P.C. before the Family Court, Ambikapur for recovery of maintenance amount. The respondent husband has also filed an application under Section 13 of the Hindu Marriage Act, 1955 before the District Judge, Surajpur seeking dissolution of marriage by a decree of divorce which came to be registered as C.S. No.43A/16. The petitioner has filed this petition under Section 24 of the Code of Civil Procedure, 1908 seeking transfer of said C.S. No.43A/2016 pending in the Court of District Judge, Surajpur to the Family Court at Ambikapur.

3. Learned counsel for the petitioner submits that the petitioner apprehends danger in the event of her attending the court at Surajpur and she may receive threat from the respondent. He further submits that the petitioner is living at Ambikapur where except her aged father, there is no other male member to help her out in the case and it is well settled position of law that convenience of the wife is paramount consideration in a matrimonial dispute. He further submits that petition filed under Section 125 (3) Cr.P.C. by the petitioner is already pending before the Court at Ambikapur.
4. On other hand, counsel appearing on behalf of the respondent has opposed the petition.
5. Heard learned counsel for the parties and perused the material on record.
6. Taking into consideration all the aforesaid facts, in particular the fact that petition under Section 125 (3) Cr.P.C. is already pending in the Family Court, Ambikapur and that in a matrimonial cases convenience of the wife has to be kept in mind, in view of the judgment of Hon'ble Apex Court in the matters of Amita Shah vs. Virendra Lal Shah (2003) 10 SCC 609 & Simi Mehrotra vs. Anil Mehrotra (2002) 10 SCC 70, the transfer petition is allowed.
7. Consequently, Civil Suit No.43A/16 (Rambahor Shukla vs. Smt. Pushplata Shukla) pending before the District Judge, Surajpur is hereby withdrawn and transferred to the Family Court, Ambikapur. The Principal Judge, Family Court, Ambikapur shall ensure early disposal of both the cases by trying the same together.
8. Parties to appear before the Principal Judge, Family Court, Ambikapur on **17.1.2017**.

Sd/-
(Pritinker Diwaker)
Judge

roshan