

HIGH COURT OF CHHATTISGARH, BILASPUR

TPC No. 71 of 2015

1. Smt. Priti Soni W/o Chandrakant Soni, Aged About 30 Years R/o C/o Narad Soni Block 8 A, Road No. 82 Sector 6 Bhilainagar Tah. & Distt. Durg, Chhattisgarh

---- Petitioner/Applicant

Versus

1. Chandrakant Soni S/o Lt Shri Kishore Kumar Soni, Aged About 30 Years R/o Sonar Para Near Sitala Mandir Ward No. 37 P.S. Basantpur, Rajnandgaon, Distt. Rajnandgaon, Chhattisgarh

---- Respondent/Non-applicant

For Petitioner	:	Shri Aman Kesharwani, Advocate
For Respondent	:	Shri Vikas Pandey, Advocate

Hon'ble Shri Justice Pritinker Diwaker

Order On Board

28/11/2016

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 14.1.2004 and out of the wedlock, the couple has a male child who is allegedly residing with the respondent at Rajnandgaon. 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 in her matrimonial home at Durg with her parents. On 7.9.2015 the petitioner-wife filed an application under Section 125 Cr.P.C. before the Family Court, Durg seeking maintenance. Meanwhile, the respondent husband has also filed an application under Section 9 of the Hindu Marriage Act, 1955 before the Family Court, Rajnandgaon for restitution of conjugal rights which came to be registered as C.S. No.95A/15. The petitioner has filed this petition under Section 24 of the Code of Civil

Procedure, 1908 seeking transfer of said C.S. No.95A/2015 pending before the Family Court, Rajnandgaon to a Court of competent jurisdiction at Durg.

3. Learned counsel for the petitioner submits that the petitioner apprehends danger in the event of her attending the court at Rajnandgaon and she may receive threat from the respondent. He further submits that the petitioner is living at her parental house 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 Cr.P.C. by the petitioner is already pending before the Court at Durg.
4. Heard learned counsel for the parties and perused the material on record.
5. Taking into consideration all the aforesaid facts, in particular the fact that petition under Section 125 Cr.P.C. is already pending in the Court at Durg 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.
6. Consequently, Civil Suit No.95A/15 (Chandrakant Soni vs. Preeti Soni) pending before the Family Court at Rajnandgaon is hereby withdrawn and transferred to the Family Court, Durg. The Principal Judge, Family Court Durg shall ensure early disposal of both the cases by trying the same together.
7. Parties to appear before the Principal Judge, Family Court, Durg on **2.1.2017**.

Sd/-
(Pritinker Diwaker)
Judge