

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P No.1054 of 2016**

Manoj Singh Thakur S/o Shri Ramayan Singh Thakur Aged About 40 Years
R/o New Sarkanda, Arvind Nagar, Bilaspur, Tahsil And District Bilaspur
Chhattisgarh.

---- Petitioners**Versus**

1. Smt. Mamta Singh W/o Manoj Singh (Wrongly Mentioned As L.P. Singh)
Aged About 33 Years D/o Of L.P. Singh, R/o Shanti Nagar Ward, Sukma,
District Sukma Chhattisgarh.

2. Pratham Singh Thakur S/o Manoj Singh Thakur Aged About 8 Years
Minor, Represented Through Mother Smt. Mamta Singh, R/o Shanti Nagar
Ward, Sukma, District Sukma Chhattisgarh.

-----Respondents

For Petitioners:

Shri Goutam Khetrapal, Advocate.

For Respondent/State:

Shri Rajendra Tripathi, Panel Lawyer.

Single Bench: **Hon'ble Shri P. Sam Koshy, J**
Order On Board

23.9.2016

1. Challenge in the present Petition under Section 482 is to the order dated 3.9.2016 passed by the Sessions Judge, Dantewada in Misc. Criminal Case No.3/2016 whereby the Court below has transferred Misc. Case No.8/09 pending before the CJM, Dantewada to the Court of CJM, Sukma.

2. The facts in brief are that the Respondents in the instant case had filed a proceeding under Section 125 Cr.P.C in the year 2009 seeking maintenance from the Petitioner and since then it was being prosecuted before the Court at Dantewada.

3. According to the Petitioner, the matter was fixed for evidence of the parties and the examination-in-chief of the present Petitioner has also been done and the matter is being fixed for his cross-examination for the last four

occasions when on all dates time was being sought for by the Respondent No.1/wife. Suddenly, now Respondent No.1/wife has moved an application before the Sessions Court at Dantewada seeking for transfer of the case from Dantewada to Sukma where she resides.

4. The Sessions Court, vide the impugned order dated 3.9.2016, allowed the same and transferred the matter to the Court of CJM, Sukma and ordered for appearance of the parties before the said Court on 19.9.2016 and which according to the Petitioner has now been further adjourned for 24.9.2016.

5. Assailing the said order, learned Counsel for the Petitioner submits that the Court below has not appreciated the fact that it is a case which has reached the fag end of the trial and at this juncture, it would not be proper for transferring the same to a different Court. He further submits that it is a case where there was a Court at Sukma for the last 4 years and Respondent No.1 has not taken any steps for the transfer of the said proceedings earlier and has now chosen to do it at this stage and therefore, the application ought to have been rejected by this Court. He further submits that there are many other disputes between the parties and therefore it would not be safe for the present Petitioner to go to Sukma for further hearings as there can be a threat of life.

6. Having heard learned counsel for the parties, this Court is of the opinion that taking into consideration the place of residence of the Complainant/Respondent No.1/wife and the fact that at the time when the application was filed before the Court of Dantewada, there was no Court at Sukma and subsequently, the Court having been established at Sukma, for all practical purposes, the dispute pertaining to Sukma has to be dealt with by the Court having jurisdiction at Sukma. This Court does not find any illegality on

the part of the Sessions Court in allowing the transfer petition and sending the matter to the Court at Sukma.

7. However, as far as the apprehension of the Petitioner in respect of the threat of life from the family of the Respondents is concerned, the Petitioner would be at liberty to approach the competent authority for proper redressal of his grievance particularly regarding the said threat. On such application being moved, the authorities concerned would consider the same objectively.

8. Taking into consideration the fact that the matter is pending since 2009, it is expected that the Court at Sukma shall take up the present case on top priority basis and shall decide the same as expeditiously as possible, preferably within a period of 6 months from the next date of hearing before the Court below.

9. With the aforesaid observations, the instant Cr.M.P is disposed of.

Sd/-
(P. Sam Koshy)
JUDGE