

HIGH COURT OF CHHATTISGARH, BILASPUR

TPC No. 2 of 2017

- Smt. Manju Dubey W/o Sanjay Dubey, Aged About 38 Years R/o Shanti Nagar Ward Behind Goyal Dharamshala Jagdalpur District Bastar, Chhattisgarh

---- Petitioner

Versus

- Sanjay Dubey S/o Shiv Kumar Dubey, Aged About 40 Years, R/o L.I.G. 610/611 H.B. Bhilai Industrial Area, P.S. Jamul Tahsil And District Durg, Chhattisgarh

---- Respondent

For Petitioner	:	Shri P.K. Tulsyan, Advocate
For Respondent	:	Shri Suryakant Mishra, Advocate

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

03/03/2017

1. Heard.
2. The petitioner-wife has filed this application for transfer of matrimonial case, which is pending before the Family Court, Durg.
3. Learned counsel for the petitioner submits that the petitioner is a destitute lady and living in a distant corner of the State at Jagdalpur, which is more than 350 Kms. away from the Durg. The matrimonial case is pending before the Family Court, Durg. The petitioner is housewife and has no source of income to earn livelihood and presently she is dependent upon the maintenance amount, which is being paid by the respondent at the rate of Rs.800/- per month. The applicant has got a son, aged about 14 years and therefore, in these circumstances, it is very difficult for her to come all the way from Jagdalpur to Durg to attend the Court.
4. On the other hand, learned counsel for the respondent submits that mere inconvenience is not a substantial ground to transfer the case. It is next contended that the mother of respondent is an old aged lady suffering from Triple Vessle Disease and the respondent has to take care of his mother, if he is required to travel frequently from Durg to Jagdalpur, he will equally

suffer hardship. It is also submitted that the respondent is prepared to bear the expenses of travelling from Jagdalpur to Durg.

5. The legal position with regard to such which cases has been considered by the Supreme Court in several decisions, noted by this Court in the case of **Smt. Kavita Singh vs. Vasant Kumar Singh**¹, as under :-

“4. In the case of *Anju Ohri v. Varinder Ohri*², transfer petition was allowed for better convenience of the wife who was residing at Delhi by transferring the case from Chandigarh to Delhi on the considerations of better convenience of the wife.

In the case of *Samita Bhattacharjee v. Kulashekar Bhattacharjee*³, petition for transfer of matrimonial case filed by wife was allowed. The wife was staying at Howrah (West Bengal) with a minor child in her parental home, whereas the case instituted by the husband was pending in the Family Court, West Tripura, Agartala. On the consideration that the wife was living at Howrah with a minor child, application for transfer was allowed.

In yet another decision of the Supreme Court in the case of *Purnima Sailani v. Shailendra Sailani*⁴, on transfer petition filed by the wife having minor daughter, the proceedings were transferred from Family Court, Allahabad to Famil Court at Ulhasnagar, Maharashtra.

Similarly, in the case of *Ritu Ratan v. Sukhbans Kumar Sirohi and anr.*⁵, wife's application for transfer of the case from Tis Hazari, Delhi to the Court at Lucknow was allowed considering the fact that other cases were also transferred.”

6. In view of the above, it is clear that the relevant consideration is better convenience of the wife. The petitioner is not residing in nearby station but

1 TPC No.71 of 2016, decided on 13.2.2017

2 (2007) 15 SCC 556

3 (2008) 17 SCC 482

4 (2009) 1 SCC 656

5 (2009) 14 SCC 682

at well known remote corner of the State at Jagdalpur and she is also destitute lady, it would be difficult for her to undertake journey to attend the proceeding in the pending suit at Family Court, Durg. Therefore, in these circumstances, it is directed that Civil Suit No. 294/15 '*Sanjay Dubey vs. Smt. Manju Dubey*' pending before the Principal Judge, Family Court, Durg is transferred to Family Court, Jagdalpur for trial. The Principal Judge, Family Court, Durg shall transfer the record of the case to the Family Court, Jagdalpur who shall proceed to decide the matter, in accordance with law.

7. Accordingly, the transfer petition is allowed.

Sd/-

(Manindra Mohan Shrivastava)
Judge