

HIGH COURT OF CHHATTISGARH, BILASPUR
Transfer Petition (Civil) No.36 of 2017

Smt. Neha Dewangan D/o Pradeep Dewangan, Aged About 29 Years R/o Orana Colony Adawal Korapur Highway Road Jagdalpur District Bastar, Chhattisgarh

---- Petitioner

Versus

Madhuraj Dewangan S/o Prakatram Dewangan, Aged About 33 Years R/o B.T.I. Road Mahasamund P.S. And Tahsil Mahasamund District Mahasamund, Chhattisgarh

-----Respondent

For Petitioner:	Shri Pravin Kumar Tulsian, Advocate.
For Respondent:	Shri Ali Asgar, Advocate.

Single Bench: Hon'ble Shri Sanjay Agrawal, J
Order On Board

14.11.2017

1. This is the Petition filed under Section 24 of the Code of Civil Procedure, 1908 (for short 'the CPC') for transfer of Civil Suit No.15-A/2017 pending before the Family Court, Mahasamund to Family Court, Jagdalpur.

2. Shri Praveen Tulsian, learned Counsel for the Petitioner submits that the marriage between the parties was solemnized on 5.2.2013 and thereafter the Petitioner/wife went along with the Respondent/husband to his house at Mahasamund. It is submitted further by him that the Petitioner/wife has left her matrimonial house on account of demand of dowry made by her in-laws and thereafter, she has filed an application for grant of maintenance as required under Section 125 of the Code of Criminal Procedure, 1973 (for short 'the Cr.P.C') before the Family Court, Jagdalpur where the case has been registered as M.J.C No.32/2016. It is submitted further that immediately after

the filing of the said proceeding, the Respondent/husband has initiated the proceedings for divorce as per the provisions prescribed under Section 13 of the Hindu Marriage Act, 1955 (for short 'the Act of 1955') on 30.3.2017. It is submitted in the Petition that since the Petitioner/wife is a house wife and dependent completely upon her father, therefore being a lady, it is very difficult for her to attend each and every hearing at the Family Court, Mahasamund which is 400 kms away from Jagdalpur. It is submitted by him that under such circumstances, the said Civil Suit No.15-A/2017 pending before the Family Court, Mahasamund be transferred to the Family Court, Jagdalpur.

3. On the other hand, Shri Ali Asgar, learned Counsel for the Respondent has opposed the Petition by inviting attention of this Court with regard to the order sheet dated 25.2.2017 passed in a proceeding initiated by the Petitioner/wife which shows that despite the willingness of the husband, the wife is not ready to join his company. It is submitted further by him that the Petitioner/wife was working as a teacher and has left her job just before filing of the application under Section 125 Cr.P.C with a mala fide intention to get the amount of maintenance from the Respondent. In view of the said fact, it is submitted that the application as filed deserves to be rejected.

4. On due consideration of the facts and circumstances of the case and the rival submissions of learned Counsel for the parties and in view of the contention as made in the Petition, I think it is just and proper to transfer the said Civil Suit No.15-A/2017 pending before the Family Court, Mahasamund to the Family Court, Jagdalpur where the proceeding under Section 125 Cr.P.C is already pending under consideration. Accordingly, the Transfer Petition filed by the Petitioner is hereby allowed and it is directed that Civil Suit No.15-A/2017 filed under Section 13 of the Act of 1955 by the Respondent/Husband

pending before the Family Court, Mahasamund shall stand transferred to the Family Court at Jagdalpour for its trial in accordance with law.

5. The Family Court, Mahasamund is hereby directed to transmit the concerned record immediately to the Family Court, Jagdalpur for further proceedings. The parties are also directed to remain present before the Family Court, Jagdalpur on 14.12.017. There shall be no order as to costs.

Sd/-

(Sanjay Agrawal)
JUDGE

Priya