

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Transfer Petition (C) No. 58 of 2016**

Smt. Chitrarekha Sinha W/o Shri Sheshnarayan @ S. Narayan Sinha,
Aged About 23 Years Through Father Manharan Sinha, R/o Devnagar
Jamul, P.S.- Jamul, Civil & Revenue District Durg, Chhattisgarh

---- Petitioner**Versus**

Sheshnarayan @ S. Narayan Sinha S/o Shri Jethuram Sinha, Aged
About 27 Years R/o Village- Arjuni, Thana & Tahsil- Arjuni, Civil &
Revenue District Dhamtari, Chhattisgarh

---- Respondent

For the Petitioner	:	Shri Sunil Sahu, Advocate.
For the Respondent	:	None present.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order on Board****24.01.2017**

1. Heard petition under Section 24 of the Code of Civil Procedure for transfer of Civil Suit No. HM 35-A of 2016 from Family Court, Dhamtari to the Family Court, Durg.
2. Learned counsel for the petitioner submits that the marriage of the petitioner and the respondent took place on 7.5.2011. Due to torture and demand of dowry, the petitioner was forced to leave her matrimonial home on 7.5.2013 and since then, she is residing with her father at Devnagar Jamul within the jurisdiction of district Durg alongwith her children. The petitioner had lodged a report against the respondent under Section 498-A of the Indian Penal Code for which the respondent has been prosecuted and acquitted by the court below.

3. Learned counsel for the petitioner further submits that the petitioner filed an application under Section 125 of the Code of Criminal Procedure before the Family Court, Durg in which order of maintenance has been passed in favour of the petitioner. The petitioner has filed an application under Section 125(3) of the Cr.P.C. for recovery of the maintenance amount. The certified copy of the petition under Section 125(3) of the Cr.P.C. and the order-sheet of Criminal M.J.C. No. 404 of 2016 are on record. It is submitted that the respondent has filed an application under Section 9 of the Hindu Marriage Act for the purpose of avoiding his liability to pay maintenance to the petitioner before the Family Court, Dhamtari. It is inconvenient for the petitioner to travel and give appearance before the Family Court, Dhamtari especially when she is financially dependent on her parents. The payment of maintenance amount by the respondent is not being made regularly because of which the petitioner was compelled to file the recovery proceedings. It is difficult for her to travel to Dhamtari and appear on each and every date of hearing before the court. For these reasons, it is prayed that the Civil Suit No. HM 35-A of 2016 pending before the Family Court, Dhamtari be transferred to the Family Court, Durg.

4. On perusal of the documents on record, the certified copy of the recovery proceedings and the copy of the order-sheet of the Civil Suit No.HM 35A of 2016, it is apparent that after passing of the order of maintenance and filing of the recovery proceedings, the respondent has brought the petition under Section 9 of the Hindu Marriage Act, 1955 before the Family Court, Dhamtari.

5. The petitioner has placed reliance on **Sumita Singh v. Kumar Sanjay and Another** reported in **AIR 2002 SC 396**, in which it has been held by the Apex Court that the convenience of the wife must be looked into in the matrimonial proceedings. The respondent has not made any efforts to give appearance and oppose the petition, though the notice is duly signed upon him.

6. For the aforesaid reasons, this petition deserves to be allowed and it is accordingly allowed. It is ordered that Civil Suit No. HM 35-A of 2016 pending before the Family Court, Dhamtari be transferred to the Family Court, Durg. The compliance of this order be made within four weeks and the petitioner is directed to appear before the Family Court, Durg on **27.2.2017**.

Sd/-

(Rajendra Chandra Singh Samant)
Judge