

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Transfer Petition (Cr.) No. 5 of 2016****Order Reserved on 07.09.2017****Order Delivered on 07.11.2017**

Smt. Indu Banjare W/o Santosh Kumar Banjare Aged About 32 Years
By Caste Satnami, At Present R/o C/o Shri Tuman Lal Kosre,
Jaistambh Chowk, Somni, Post Somni, Tahsil And Distt. Rajnandgaon
Chhattisgarh.

---- Petitioner**Versus**

Santosh Kumar Banjare S/o Shri A.D. Banjare Aged About 37 Years
By Caste Satnami, By Occupation Govt. Service (Teacher), R/o
Vivekanand Colony, Jashpur Nagar Distt. Jashpur Chhattisgarh.

---- Respondent

For the Petitioner	: Shri Shrawan Agrawal, Advocate.
For the Respondent	: Shri Neeraj Kumar Mehta, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**CAV ORDER**

1. Heard.
2. This transfer petition has been brought by the petitioner under Section 407 of the Code of Criminal Procedure with a prayer to transfer Criminal Case No. 128 of 2015 pending before the Court of Chief Judicial Magistrate, Jashpur to the Court of Chief Judicial Magistrate, Rajnandgaon.
3. The petitioner and the respondent are wife and husband. On a complaint filed by the respondent, a criminal case under Section 312 of the Indian Penal Code has been registered against the petitioner in the Court of Chief Judicial Magistrate, Jashpur, which is pending. There being a matrimonial dispute, the respondent has filed an application under Section 25 of the Guardians and Wards Act for the custody of minor child – Gourav

Banjare before the Court of CJM, District Jashpur. A transfer petition made by the petitioner being Transfer Petition (C) No. 25 of 2013 before this Court, this Court has been pleased to transfer the case to the Family Court, Rajnandgaon. Further, the petitioner has filed an application under Section 127 of the Code of Criminal Procedure which is also pending before the Family Court, Rajnandgaon.

4. The petitioner is a woman with minor child and old mother residing in Rajnandgaon and the distance between Jashpur to Rajnandgaon is near about 600 kms. The petitioner has no source of income and there is nobody else to take care of the minor child and old mother, whereas the respondent is earning from his employment as government teacher. Hence, it is prayed that the application for transfer may be allowed.

5. In reply, Learned counsel for the respondent submits that the petitioner has suppressed the fact that the case under Section 25 of the Guardians and Wards Act has been disposed off as the respondent has withdrawn the same. It is also submitted that the petitioner has her own means of sources of income and she is capable to attend the Court in Rajnandgaon.

6. I have heard learned counsel for the parties and perused the documents placed on record.

7. Looking to this fact that the petitioner is a woman and she has claimed for maintenance on the ground that she is unable to maintain herself, for

this reason that the order has been passed in her favour in Transfer Petition (Civil) No.25 of 2013 by this Court by transferring the case to the Family Court, Rajnandgaon, it would be appropriate to allow this application as well.

8. Hence, this petition is allowed. Criminal Case No.128/2015, pending before the Court of Chief Judicial Magistrate, Jashpur, District – Jashpur is transferred to the Court of Chief Judicial Magistrate, Rajnandgaon.

9. No order as to costs.

Sd/-

(Rajendra Chandra Singh Samant)
Judge