

HIGH COURT OF CHHATTISGARH, BILASPUR

TPCR No. 16 of 2016

Smt. Poonam Sharma, W/o. Sudhir Sharma, Aged About 29 Years,
R/o. Behind Central Bank, Champa, Tahsil Champa, District Janjgir
Champa, Chhattisgarh.

---- Petitioner

Versus

1. Sudhir Sharma, S/o. Shatruhan Sharma, Aged About 30 Years, At Present R/o. Baserpara, Near Chakradhar Chowk, House Of A.K. Mishra, Police Station- Chakradharnagar, District Raigarh, Chhattisgarh.
2. Girish Kumar Shukla, S/o. Dwarika Prasad Shukla, Aged About 36 Years.
3. Ruchi Shukla, W/o. Girish Shukla, Aged About 28 Years.
No.2 & 3 are R/o. Milan Chowk, Kududand, Police Station- Civil Line, Bilaspur, Tahsil & District Bilaspur, Chhattisgarh.
4. Shatruhan Sharma, S/o. G.P. Sharma, Aged About 57 Years.
5. Anjani Sharma, W/o. Shatruhan Sharma, Aged About 52 Years.
No.4 & 5 are R/o. Devnandan Phase-1, Street No.3, Sarkanda Nagar, Bilaspur, Tahsil & District Bilaspur, Chhattisgarh.
6. State Of Chhattisgarh, Through the Station House Officer, Police Station Sarkanda, District Bilaspur, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. V.R.Tiwari, Advocate
For Respondent No.1 to 5	:	Mr. Malay Shrivastava, Advocate
For Respondent No.6	:	Mr. Anupam Dubey, Dy. Govt. Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

11.05.2017

Heard

1. The instant petition is filed by the wife seeking transfer of the Criminal Case No.13499/2014 from the Court of J.M.F.C. Bilaspur to the competent Court of Champa.
2. Learned counsel for the petitioner submits that when the wife was subjected to cruelty for demand of dowry, a report was made and after investigation, the police having found the offence was committed filed the charge sheet against the respondents/accused. It is stated that while the complainant/wife appeared in

the Court on 09.09.2016 in criminal case to record her statement, the husband Sudhir Sharma and brother-in-law Girish Shukla had threatened, abused and pressurized her to take back the case, for which an immediate report was made on 09.09.2016 followed by another report to the Superintendent of Police on the same date. It is submitted that there is every likelihood that the complainant may be threatened and she being a lady, she has to travel from Champa to Bilaspur, which is 70 km away. Therefore, the criminal case may be transferred to the competent Court of Champa so that the case is decided on merits without any undue force or threat exerted to the witnesses.

3. Learned counsel for the respondents opposes the same and would submit that the petitioner on the earlier occasion also moved the like nature of application for transfer of another case whereby one case was transferred at the behest of the petitioner from Janjgir to Bilaspur. It is further submitted as per the order dated 09.09.2016 on that date Girish Shukla was not at all present and only Sudhir Sharma was present, which would show that the false report has been made. It is further submitted that on 07.07.2014 except the husband, the other accused were exempted thereby the false allegations have been attributed. Learned counsel also placed an order dated 07.07.2014, for perusal of the Court, whereby the exemption was granted and he submits that under the circumstances, the petition for transfer of the case may be dismissed.
4. Perused the allegations made in the transfer petition wherein the main allegation have been attributed to the husband that on 09.09.2016 when she appeared in the Court and while was coming out, she was threatened and some abusive gesture was

also made by flying-kiss by the husband whereby she was humiliated in the public and people started laughing around the Court. Immediately a report was made to the Station House Officer, Police Station- Civil Line, Bilaspur, which is attached in the petition as Annexure P-3, would show that the complainant was threatened by Sudhir Sharma and Girish Shukla, which appears to have been made on 09.09.2016. The order sheet of 09.09.2016 would show that the witnesses and the complainant were present and since the Court was on leave, as such, the evidence could not be recorded and further date was given. The documents filed by the respondents would show that some execution proceeding was transferred at the behest of the petitioner Poonam Sharma for procurement of the movable goods. Thereby, the execution was transferred from Janjgir to Bilaspur for the recovery of the goods, which belonged to petitioner. In view of this, in the background of such order sheet, it cannot be assumed that the complainant is in habit of making such transfer petition. On the contrary, the report dated 09.09.2016 would show that clear allegations were attributed against the husband.

5. Learned counsel for the respondents though placed the order dated 07.07.2014 for perusal and submits that the other accused have been exempted, the order sheet would show that the accused Shatruhan Sharma, Anjani Sharma & Ruchi Shukla were only exempted under Section 205 of Cr.P.C. taking into fact that Shatruhan Sharma is aged about 57 years and Anjani & Ruchi are the ladies. Therefore, it appears that Sudhir Sharma and Girish Shukla were not exempted and no application for exemption has been filed that who was exempted from appearance in Court.

6. Be that as it may, even otherwise, the threat extended by Sudhir Sharma stands on record. Considering the facts of this case, the complainant who is a lady and has filed the complaint, the voice raised by her, cannot be ignored and for all practical approach the Courts lean in favour in transfer of such case, if such grounds are raised. In this case, the accused/ ladies are already exempted from their appearance before the JMFC. Therefore, in the background of this case, learned J.M.F.C., Bilaspur is directed to transfer the Criminal Case No.13499/2014 to the competent Court of Champa, District Janjgir-Champa, which is only 70 km away from Bilaspur.
7. In the result, the petition is allowed. The parties shall appear before the J.M.F.C. Champa on 21.07.2013. No order as to cost.

Sd/-
(Goutam Bhaduri)
Judge