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HIGH COURT OF CHHATTISGARH, BILASPUR

Transfer Petition (C) No.6 of 2018

Smt. Kamini Yaduraj, wife of Shri Rishavdev Yaduraj, aged about 33 years, resident of Behind Digjam Show Room, Near Santoshi Mandir, Pandari, Raipur, Police Station Pandari, District Raipur, Chhattisgarh

---- Petitioner

versus

Rishavdev Yaduraj, son of Shri Khilanand Yaduraj, aged about 39 years, resident of Village Goregaon, Post Amali, Tahsil Nagri, District Dhamtari, Chhattisgarh, At present resident of Sector 10, Sadak No.2-A, Qrt. No.10-D, Bhilai, Police Station Bhilai, Tahsil Bhilai, District Durg, Chhattisgarh

--- Respondent

For Petitioner	:	Shri P.P. Sahu, Advocate
For Respondent	:	Shri Kunal Das, Advocate

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

27.3.2018

1. The petition is listed for hearing on admission. With the consent of Learned Counsel appearing for the parties, the matter is heard and decided finally.
2. Learned Counsel appearing for the Petitioner/wife submits that marriage between the parties was solemnised on 5.5.2009. Out of their wedlock, they have been blessed with a girl child, namely, Rishita, who is aged about 6 years. Due to ill-treatment by the Respondent/husband and his family members, soon after the marriage, the Petitioner/wife was forced to leave the house of the Respondent/husband. She filed an application under Section 125 of the Code of Criminal Procedure before the competent Court at Raipur on 7.12.2015 which was registered as Case No.663 of 2015. The Petitioner also filed another application under Section 9 of the Hindu Marriage Act at Raipur. During pendency of both the applications, in a community meeting held on 5.3.2016, the Respondent/husband stated that if the Petitioner/wife withdraws

the case against him, he will keep her with him. Based on this statement, the Petitioner filed an application for withdrawal of the case and vide order dated 29.3.2016, the Family Court, Raipur granted permission to withdraw the case and dismissed the same as withdrawn. Thereafter, when the Petitioner approached the Respondent/husband, he refused to keep her in his house. Subsequently, the Respondent/husband filed an application under Section 13 of the Hindu Marriage Act before the Family Court at Dhamtari. Learned Counsel further submits that the Respondent/husband filed the said application before the Family Court, Dhamtari only to harass the Petitioner/wife. The Petitioner, being a lady and having a small child with her, is unable to attend the Court at Dhamtari. The Petitioner had earlier filed two applications, one under Section 125 of the Code of Criminal Procedure and the other under Section 9 of the Hindu Marriage Act before the Family Court at Raipur. The Respondent/husband neither resides at Dhamtari nor the parties last resided at Dhamtari. The Respondent/husband is an employee of Bhilai Steel Plant and is residing at Bhilai, but even then he has filed the application before the Family Court at Dhamtari. If the said case is transferred to Family Court, Raipur, the Respondent, who is working as a Manager in Bhilai Steel Plant at Bhilai will not suffer any problem because Raipur is only about 30 Kms. Away from Bhilai, whereas Dhamtari will be about 100 Kms. away for both the parties. Therefore, Civil Suit/Case No.54-A of 2017 pending before the Family Court, Dhamtari may be transferred to the Family Court, Raipur.

3. Per contra, Learned Counsel appearing for the

Respondent/husband submits that both the parties lastly resided together at Dhamtari, therefore, competent jurisdiction lies at Dhamtari. Bhilai is only the work place of the Respondent. Therefore, the Respondent has rightly submitted the application before the Family Court at Dhamtari.

4. Considering the fact that the Petitioner is a lady, she has a 6 years' old small child with her, Dhamtari is neither work place of any of the parties nor they reside there, earlier litigations have been pursued in the Court at Raipur, the husband is employed at Bhilai, which is 30 Kms. away from Raipur and he would not suffer any hardship in attending the Court at Raipur, the transfer petition deserves to be allowed.
5. Resultantly, the transfer petition is allowed. Civil Suit/Case No.54-A of 2017 pending before the Family Court, Dhamtari is transferred to the Family Court, Raipur.

Sd/-
(Arvind Singh Chandel)
Judge