

HIGH COURT OF CHHATTISGARH, BILASPUR**TPC No. 8 of 2018**

- Smt. Alka Mishra W/o Vivek Kumar Mishra Aged About 31 Years D/o Shri Kamlesh Shukla, R/o 5/F, Parijat Colony, Nehru Nagar, Bilaspur, Tahsil And District Bilaspur, Chhattisgarh

---- Petitioner**Versus**

- Vivek Kumar Mishra S/o Dilip Kumar Mishra Aged About 31 Years R/o Mig-32, Mahavir Nagar Behind Mining Office, New Purena, Tahsil And District Raipur, Chhattisgarh, Address No.2- MSC Agency India Pvt. Ltd., Add. MSC House Andheri Kurla Road, Andehri East J.B. Mumbai Maharastra 40059

---- Respondent

For Petitioner	:	Shri Ankur Kashyap, Advocate
For Respondent	:	Ms. Reena Singh, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****24/08/2018**

1. Heard.
2. The instant petition is for transfer of a matrimonial case bearing No.434/2017 pending before the Family Court, Raipur to the Family Court, Bilaspur.
3. The instant petition is filed by the wife. It is contended that the petitioner was married to the respondent Vivek Kumar Mishra in the year 2016, thereafter, she was subjected to physical and mental torture for demand of dowry as also was subjected to cruelty when the husband became intoxicated. It is stated that

because of such behaviour and the maltreatment and the physical assault she started living at Bilaspur. It is further contended that the respondent/husband is working as a Marine Engineer and getting a salary of Rs.1,50,000/- per month. It is stated that an application under Section 125 of the Cr.P.C. has been filed before the Principal Judge, Family Court Bilaspur bearing MJC No.41/2018 and still the maintenance is yet to be awarded. It is further contended that the petitioner being the lady, her mother is ailing and she has to look after her, she could not travel on each and every date to Raipur and no prejudice would be caused if the case is transferred to the Family Court Bilaspur as till date no maintenance has been paid.

4. Learned counsel for the respondent vehemently opposed the same and submits that initially after the filing of the case, the petitioner proceeded ex-parte thereafter 5 – 6 times, time has been given and no reply has been filed till date. She further submits that the petitioner if wants any maintenance, she can file a suitable application in which the Court may pass order.
5. Perused the documents filed along with the petition. It appears that the husband/respondent has filed an application under Section 13 (1) of the Hindu Marriage Act, 1955, claiming divorce from the petitioner/wife, which is pending adjudication in the Family Court, Raipur. Prima facie it appears till date no maintenance has been allowed to the wife/petitioner and the application filed before the Family Court still remains to be adjudicated. Under the circumstances, taking into the position of the wife that she is a non-working woman, no prejudice would be caused to the husband if the case is transferred

to Bilaspur and the proceeding under Section 125 Cr.P.C. have already been filed before the Court, therefore, in all practical purpose, the husband has to travel to the Bilaspur. Accordingly, considering the convenience of the wife and the fact that till date she has not been allowed any maintenance, it is directed that the case bearing No.434/2017 in between Vivek Kumar Mishra Vs. Smt. Alka Mishra pending in the Family Court, Raipur shall stand transferred to the Family Court Bilaspur.

6. With such observation, the petition stands disposed of.

Sd/-

Goutam Bhaduri
Judge

Ashu