

HIGH COURT OF CHHATTISGARH, BILASPUR**TPC No. 49 of 2017**

Smt. Devika @ Richa Soni W/o Pramod Soni, Aged About 33 Years R/o Shivpara, Ward No.33, District Durg, Chhattisgarh, Present Address Vasundhara Nagar, Changorabhata, District Raipur, Chhattisgarh.
--- **Petitioner**

Versus

Pramod Soni S/o Ratan Lal Soni, Aged About 35 Years R/o House No.46, Jawahar Nagar, Durg, Tahsil & District Durg, Chhattisgarh.
--- **Respondent**

For the applicant : Ms. Reena Singh, Advocate.
For the respondent : Mr. Tarendra Kumar Jha, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

04.10.2018

1. This is a transfer petition by the wife. There are two cases pending before the Family Court of Durg, one is filed by the husband u/s 13 of the Hindu Marriage Act seeking divorce which was registered as Case No. 268-A/2014 and the other is preferred by the wife u/s 9 of the Act for restitution of conjugal rights which was registered as C.S.No.18-A/2016. By this petition the wife seeks transfer of two petitions from Family Court Durg to Family Court Raipur.
2. Learned counsel for the appellant submits that the wife is presently undergoing internship of Physiotherapy course at Raipur and the respondent is also working in Air Port Authority, Raipur and further one more case u/s 12 of the Domestic Violence Act has been filed by the wife before the Raipur Court, therefore, both the cases i.e., application u/s 9 for restitution of conjugal rights as also the application u/s 13 of the Hindu Marriage Act may be transferred to one Family Court at Raipur.
3. On the other hand, learned counsel for the respondent

vehemently opposes the same and would submit that the parents of the applicant wife are residents of Durg which would be evident from the cause title of the petition filed by the wife u/s 9 and there is hardly 40 Kms., distance from Durg to Raipur therefore the instant petition seeking transfer of two cases is not bona-fide and without any cogent reasons, the cases cannot be transferred to Raipur.

4. A perusal of the documents annexed to the petition would show that the wife has preferred a petition u/s 9 of the Hindu Marriage Act for restitution of conjugal rights wherein the wife is shown that she is resident of Durg and the husband is also shown to be resident of Durg. The husband who has preferred application for divorce wherein the wife has entered appearance has also mentioned in the cause title of his application that the wife is resident of Durg. Simply because that the wife is presently prosecuting internship/studies at Raipur, a ground for transferring the cases cannot be made out especially when it has been stated by the petitioner that the evidence has begun before the family Court, Durg.
5. Under the circumstances, I do not find any valid reason to transfer the case from Durg to Raipur. The petition has no merit and is dismissed.

**Sd/-
GOUTAM BHADURI
JUDGE**