

HIGH COURT OF CHHATTISGARH, BILASPUR**T.P.(C) No. 65 of 2017**

Smt. Shushma Singh Thakur @ Nini (Sushma) W/o Prateek Singh Bargah @ Bittu (Yogesh) Aged About 29 Years R/o Village Jhoka (Latua), Post Latua, Police Station City Kotwali, Baloda- Bazar, District Baloda- Bazar- Bhatapara, Chhattisgarh.

---- Petitioner**Versus**

Prateek Singh Bargah @ Bittu (Yogesh) S/o Madhav Singh Bargah, R/o Behind Revenue Colony, Chantidhih, Sarkanda, Police Station Sarkanda, Bilaspur, District Bilaspur, Chhattisgarh.

---- Respondent

For Petitioner:
For Respondent:

Shri Hemant Gupta, Advocate.
Shri Surendra Kumar Dewangan, Advocate.

Single Bench: Hon'ble Shri Sanjay Agrawal, J**Order On Board****19.04.2018**

1. This transfer petition has been preferred under Section 24 of the Code of Civil Procedure, 1908 (hereinafter refer to as the 'CPC') by the applicant/wife for transfer of Civil Suit No. 304-A/2017 pending before the Family Court, Bilaspur to the Family Court, Baloda Bazar.

2. It is submitted by the petitioner in her application that her marriage with the respondent was solemnized on 17.02.2016 and after few months, due to her husband's ill behaviour, she started living separately and lodged a complaint under Section 12 of the Protection of Women from Domestic Violence Act before the Chief Judicial Magistrate, Baloda Bazar. The case is accordingly registered as Miscellaneous Criminal Case No. 41/2017. It is

submitted further that after filing of the said complaint, the husband has initiated the proceedings for divorce as per the provisions prescribed under Section 13 of the Hindu Marriage Act, 1955 before the Family Court, Bilaspur where the case has been registered as Civil Suit No. 304-A/2017. It is submitted further by the petitioner that her father is too old and he is not in a position to move without any support due to amputation of his right leg and therefore, petitioner is facing great hardship to attend the day to day hearing of the said Civil Suit at the Family Court, Bilaspur. It is submitted further that since she is a teacher in Ambuja School at Baloda Bazar and therefore, it is very difficult for her to attend each day hearing in the said Family court, Bilaspur after taking leave from the school. In support Shri Hemant Gupta, counsel for the petitioner, placed his reliance upon the principles led down in the matter “**Sumita Singh Vs. Kumar Sanjay and Another reported in (2001) 10 SCC 41**” and “**T. Gayatri Devi Vs. Dr. Tallepaneni Sreekanth reported in 2013 (10) Scale 421**”.

3. On the other hand Shri Surendra Kumar Dewangan, counsel for the respondent submits that the distance is not very far between these two places and in absence of any legal ground, the said divorce proceedings do not require to be transferred from Family Court, Bilaspur to Family Court, Baloda Bazar. He submits further that during the pendency of the said divorce proceedings, an application was made by the petitioner under Section 24 of the Hindu marriage Act on 15.11.2017 and praying for litigation and travelling expenses along with maintenance amount to the tune of Rs. 22,000/- per month and therefore, the transfer petition as framed while suppressing this material fact deserves to be rejected.

4. I have heard learned counsel for the parties and perused the entire relevant papers annexed with this petition carefully.

5. Undisputedly, the petitioner has lodged the complaint under Section 12 of the Protection of Women from Domestic Violence Act on 03.03.2017 before the Chief Judicial Magistrate, Baloda Bazar. It is also not in dispute that after sometime the husband has initiated the proceedings for divorce as per the provisions prescribed under Section 13 of the Hindu Marriage Act, 1955 before the Family Court, Bilaspur.

6. From the perusal of the entire averments as made in the transfer petition, the only ground which has been raised by the petitioner is that since she is in job and her father is too old and because of amputation of his right leg, it is difficult for her to attend each and every date of hearing at Family Court, Bilaspur. The contention so urged is, however, noted to be rejected as the distance between these two places is just above 65 kilometers. Besides and pertinently to be noted here that during the said divorce proceedings, the petitioner has moved an application as required under Section 24 of the Hindu Marriage Act on 15.11.2017, prior to filing of this petition, by claiming litigation and travelling charges including other expenses like maintenance amount to the tune of Rs. 22,000/- per month. The filing of said application has not been disclosed by the petitioner while filing this transfer petition and therefore, under any circumstances, she is not entitled to get the transfer of the said suit as claimed. In so far as the case laws relied upon by Shri Gupta is concerned, they are on different footing as distance between the places, as reflected therein, are more than 950 kilometers and were kept in mind while passing those judgments.

7. Having considered the materials available on record, I do not find any

legal ground so as to transfer the said Civil Suit (C.S. No. 304-A/2017) from Family Court, Bilaspur to Family Court, Baloda Bazar.

8. Accordingly, the petition deserves to be and is hereby dismissed. No order as to costs.

Sd/-

(Sanjay Agrawal)
JUDGE

Nikita