

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Transfer Petition (Civil) No.26 of 2019**

- Smt. Nilam Yadav W/o Shri Vijay Shankar Yadav Aged About 31 Years C/o Father Jayprakash Yadav, R/o Saket Nagar, Near Bhelwa Pond, Kohka Bhilai, Durg, Tahsil And District Durg, Chhattisgarh

---- Petitioner**Versus**

- Vijay Shankar Yadav S/o Shri Ramkumar Yadav Aged About 34 Years R/o House No. D-188, Yadunandan Nagar, Tifra, Bilaspur, Police Station Sirgitti, Tahsil And District Bilaspur, Chhattisgarh

---- Respondent

 For the Petitioner : Shri Punit Ruparel, Advocate
 For the Respondent : Shri Vaibhav P Shukla, Advocate

Hon'ble Shri Justice Ram Prasanna Sharma
Order On Board

09.7.2019

1. This transfer petition filed by the wife/petitioner under Section 24 of the Code of Civil Procedure, for transferring Case No.704-A/2018 pending before the Court of Principal Judge Family Court Bilaspur to the Court of Principal Judge Family Court Durg, filed under Section 13(1)(1A)(1B) of the Hindu Marriage Act, 1955 for divorce by the husband/respondent.

2. Learned counsel for the petitioner submits that marriage between the parties was solemnized on 28.11.2014 at Bhilai Nagar Kohka, Distt. Durg, but after marriage the respondent side made domestic violence and other adverse activities against the petitioner that is why she is living with her parents at Durg. An application under Section 125 of the CrPC 1973 is filed by her

against the husband and one another petition of domestic violence act is also filed by her which is pending in the Court at Durg. The petitioner is having a minor girl child aged about two years and eleven months, she is facing numerous problems to maintain the child and she is unable to travel from Durg to Bilaspur, therefore, her case should be transferred to the Court at Durg. Learned counsel for the petitioner has placed reliance on various judgments passed by this Court and passed by Hon'ble the Supreme Court in the matters of Kavita Kaithwas Vs. Mukesh Kaithwas (TPC No.51 of 17), Smt. K. Lekha vs. K. Ravikumar (TPC No.01/2018), Smt. Aayushi Pareek Vs. Sumit Pareek (TPC NO.02 of 18), J, Durga Debi vs. Vankata Bala Subramani [(2004) 13 SCC 689], Kajol S Chandiramani vs. Sanju Hiranand chandeiramani [(2005) 11 SCC 485] and Veena Rani Vs. Vijay Kumar [(2004) 13 SCC 503].

3. On the other hand, learned counsel for the respondent submits that the respondent is willing to bear the expenses of the petitioner to attend the Court at Bilaspur and if the case is transferred, he has to suffer numerous problems. He has placed reliance in the matter of **Anindita Das Vs. Sirjit Das** reported in **(2006) 9 SCC 197**.

4. In the present case, two cases of Domestic Violence Act and application under Section 125 of CrPC are already pending before the Court at Durg in which the respondent is appearing. The respondent is not having any burden to maintain the child while the petitioner is burdened with the maintenance of the small

child. In the matter of **Rajani Kishor Pardeshi Vs. Koshor Babulal Pardeshi** reported in **(2005) 12 SCC 237**, it is held that convenience of the wife is to be preferred over that of the husband. Looking to the entire situation, it would be proper to transfer the case at Bilaspur to the Court of Durg.

5. Accordingly, present petition is allowed. Case No.704A/2018 filed under Section 13 of the Hindu Marriage Act which is pending before pending before the Court of Principal Judge Family Court Bilaspur is directed to be transferred to Principal Judge Family Court Durg with immediate effect.

6. Both the parties shall remain present before the Court at Durg on 03.9.2019 for further proceedings.

7. Accordingly, the petition stands disposed of.

Sd/-
(Ram Prasanna Sharma)
JUDGE