

**AFR****HIGH COURT OF CHHATTISGARH, BILASPUR****TPC No. 39 of 2019****RESERVED ON 3-12-2019****DELIVERED ON 4-12-2019**

- Smt. Deepika Goyal W/o Shri Amit Kumar Agrawal, D/o Prem Chand Singhal Aged About 32 Years Raigarh Road Patthalgaon, Thana And Tahsil Patthalgaon, District Jashpur Chhattisgarh Present Address Mayapur, Chandni Chowk, Ambikapur, District Surguja Chhattisgarh

**---- Applicant****Versus**

- Shri Amit Kumar Agrawal S/o Suresh Kumar Agrawal Aged About 34 Years Raigarh Road Patthalgaon, Thana And Tahsil Patthalgaon, District Jashpur CG

**---- Non-applicant**


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For applicant : Mrs. Ranjna Jaiswal, Adv.  
 For Non-applicant : Ms. Juhi Jaiswal and Mr. Sunny Agrawal, Adv.

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**Hon'ble Shri Sharad Kumar Gupta, Judge****CAV ORDER**

1. Applicant has preferred this TPC under Section 24 of the Civil Procedure Code (in short 'CPC') for transfer of Civil Suit No. 11-A/2018 (Amit Kumar Agrawal -v- Smt. Dipika Goel) pending before the Family Court, Jashpur (CG) to the Family Court, Ambikapur.

2. In brief the applicant's case is that she is legally wedded wife of non-applicant. She resides along with two children namely Arth Goel aged about 9 years and Ku. Aadvika Goel aged about 4 years at Ambikapur whereas non-applicant resides at Patthalgaon, Distt. Jashpur. He has filed an application under Section 13 of the Hindu Marriage Act before the Family Court, Jashpur on 25-7-2018. It was registered as Civil Suit No. 11-A/2018. She has also filed an application under Section 125 of the Cr.P.C., before the Family Court, Ambikapur on 8-4-2019. She has no source of income.

3. In brief the case of the non-applicant is that applicant and children are residing at Patthalgaon. She is getting Rs. 10,000/- per month as interim maintenance. She is also getting Rs. 1,000/- per appearance before the Family Court, Jashpur.

4. Counsel for the applicant placed reliance on the decision of Hon'ble Supreme Court in the matter of **G. R. Bhuvneshwari -v- G.S. Puttaraju** [(2018) 13 SCC 650] para 4 and 5 of which are relevant and quoted below :-

“4. We have taken note of the fact that the appellant is employed as a teacher and is a single mother responsible for looking after her 9-year-old son who is studying at a school in Mysore. Moreover, proceedings in Criminal Miscellaneous No. 158 of 2011 between the parties pertaining to maintenance are also pending at Mysore. Considering these facts, we are inclined to allow this appeal.

5. Accordingly, the impugned order passed by the High Court is set aside. Consequently, MC No. 21 of 2010 and WC No. 1 of 2010, between the parties, pending before the Court of Civil Judge, Senior Division, Maddur shall stand transferred to the Family Court at Mysore.”

5. Counsel for the applicant placed reliance on the decision of Hon'ble Supreme Court in the matter of **Anupama Patil -v- Natraj Veeranagouda Patil** [(2018) 15 SCC 354] para 4 of which is relevant and quoted below :-

“4. Today, both the parties are present before the Court. Having heard the learned counsel appearing on both sides and having gone through the materials on record, we deem it fit to transfer MC No. 125 of 2016 from the Family Court at Hubballi to the Family Court at Bengaluru, Karnataka.”

6. Counsel for the non-applicant placed reliance on the decision of Hon'ble Supreme Court in the matter of **Anindita Das -v- Srijit Das** [(2006) 9 SCC 197] para 1, 2, 3, 4, 5, & 6 of which are relevant and quoted below :-

“1. This transfer petition has been filed by the wife on the ground that the petitioner has a small child of six years. She has further claimed that she has no source of income and it is difficult for her to attend the court at Delhi. She has further claimed that she is not keeping good health.

2. In support of this petition, a large number of authorities have been cited, namely, *Reena Bahri v. Ajay Bahri* [(2002) 10 SCC 136] , *Leena Mukherjee v. Rabi Shankar Mukherjee* [(2002) 10 SCC 480] , *Ram Gulam Pandit v. Umesh J. Prasad* [(2002) 10 SCC 551] and *Rajwinder*

*Kaur v. Balwinder Singh* [(2003) 11 SCC 726] . These authorities are all based on the facts of their respective cases. They do not lay down any particular law which operates as a precedent.

3. Even otherwise, it must be seen that at one stage this Court was showing leniency to ladies. But since then it has been found that a large number of transfer petitions are filed by women taking advantage of the leniency shown by this Court. On an average at least 10 to 15 transfer petitions are on board of each court on each admission day. It is, therefore, clear that leniency of this Court is being misused by the women.

4. This Court is now required to consider each petition on its merit. In this case the ground taken by the wife is that she has a small child and that there is nobody to keep her child. The child, in this case, is six years old and there are grandparents available to look after the child. The respondent is willing to pay all expenses for travel and stay of the petitioner and her companion for every visit when the petitioner is required to attend the court at Delhi. Thus, the ground that the petitioner has no source of income is adequately met.

5. Except for stating that her health is not good, no particulars are given. On the ground that she is not able to come to Delhi to attend the court on a particular date, she can always apply for exemption and her application will undoubtedly be considered on its merit. Hence, no ground for transfer has been made out.

6. Accordingly, we dismiss the transfer petition. We, however, direct that the respondent shall pay all travel and stay expenses of the petitioner and her companion for each and every occasion when she is required to attend the court at Delhi.”

7. Counsel for the non-applicant placed reliance on the decision of Hon'ble High Court of Calcutta in the matter of **Deepika Agrawal -v- Rishi Agrawal** [(2019) SCC online Calcutta 994] para 25 of which is relevant and quoted below :-

“25. In my view, simply because the wife feels inconvenient to attend Court at Alipore is no ground for withdrawal of Matrimonial Suit from the Court at Alipore and to transfer it in the district of Birbhum. From

the averments it does not appear that there was no cause of action for filing the Matrimonial Suit in the Court at Alipore. Therefore, the ground of inconvenience pleaded by the petitioner/wife has to be weighed with other attending circumstances. I have already held that Act VIII case cannot be transferred to Birbhum. Therefore, the wife has to contest the proceeding in the Court at Alipore. The other grounds taken by the wife that a police case is pending in Rampurhat cannot be the sole ground for transfer of the Matrimonial Suit in the Court at Birbhum. The husband/opposite party is one of the accused persons in the said case. However, from the summons it appears that such P.S. case initiated after the Matrimonial Suit has been filed before the Alipore Court. That apart the petitioner has also not disclosed before which Court the P.S. case has been registered and pending and under which sections of the Penal Code, 1860 such complaint has been filed. That being so such statement in the Section 24 application need not be taken account of.”

8. Counsel for the non-applicant placed reliance on the decision of Hon'ble Supreme Court in the matter of **Usha Jeorge -v- Koshy George** [(2000) 10 SCC 95] para 2 of which is relevant and quoted below :-

“2. In view of the fact that the Family Court at Secunderabad is already seized of the matter since long and we are told that 11 sittings are over, in our view, this is not the proper stage to transfer the proceedings from the Family Court, Secunderabad to any other court. However, we direct the Family Court at Secunderabad to see that the proceedings are put to an end at the earliest and preferably within three months from today. In the meantime the presence of the minor child at Secunderabad is dispensed with subject to any further orders of the Family Court if the Court feels his presence necessary.”

9. During final argument Counsel for the applicant fairly admitted that applicant and children are residing at Patthalgaon, children are also studying at Patthalgaon and not at Ambikapur. Moreover, non-applicant filed earlier that civil suit and thereafter applicant filed an application under Section 125 of Cr.P.C. Moreover as per photocopy of order sheet dated 29-7-2019 of the Family Court Jashpur, Rs. 1,000/- per appearance was awarded to her. Moreover, said civil suit is pending for her evidence. Moreover, said case is

pending before the Family Court, Jashpur for last 1 year and 4 months. Moreover, Patthalgaon comes under territorial jurisdiction of Jashpur Family Court.

10. This fact that in future applicant along with her children would shift at Ambikapur cannot be considered at this stage, because any cause of action which would arise in future may be considered in future. Such ground is premature at this stage.

11. Looking to the above mentioned facts and circumstances of the case, this Court finds that applicant does not get any help from the aforesaid decisions of Hon'ble Supreme Court in the matters of **G.R. Bhuneshwari** (supra) and **Anupma Patil** (supra) and aforesaid decision of Hon'ble Supreme Court in the matter of **Anindita Das** (supra), **Usha George** (supra) and aforesaid decision of Hon'ble Calcutta High Court in the matter of **Dipika Agrawal**( supra) are applicable against the applicant and in favour of non-applicant.

12. Looking to the above mentioned facts and circumstances of the case, this Court finds that no sufficient grounds exist in favour of the applicant on strength of which the said civil suit may be transferred from Family Court, Jashpur to Family Court, Ambikapur.

13. Consequently, the instant TPC deserves to be and is hereby dismissed.

14. In view of above order, I.A. No. 1/2019 also stands disposed of.

15. No order as to costs.

**Sd/-**  
**(Sharad Kumar Gupta)**  
**Judge**