

HIGH COURT OF CHHATTISGARH, BILASPUR**Order Reserved On 04.09.2019****Order Delivered On 04.12.2019****CRR No. 648 of 2019**

- Smt. Nand Kumari Sahu W/o Shyam Sunder Sahu Aged About 24 Years R/o Village Anjora, Tahsil And District Rajnandgaon Chhattisgarh.

---- Applicant**Versus**

1. Shyam Sunder Sahu S/o Jaitram Sahu Aged About 29 Years R/o Villlage Singdai, Ward No. 50 Tahsil And District Rajnandgaon Chhattisgarh.
2. Jaitram Sahu S/o Firaanta Sahu Aged About 57 Years R/o Villlage Singdai, Ward No. 50 Tahsil And District Rajnandgaon Chhattisgarh.
3. Smt. Kailash Sahu W/o Jaitram Sahu Aged About 50 Years R/o Villlage Singdai, Ward No. 50 Tahsil And District Rajnandgaon Chhattisgarh.
4. Dilip Sahu S/o Jaitram Sahu Aged About 24 Years R/o Villlage Singdai, Ward No. 50 Tahsil And District Rajnandgaon Chhattisgarh.
5. Shyamlal Sahu S/o Jaitram Sahu Aged About 27 Years R/o Villlage Singdai, Ward No. 50 Tahsil And District Rajnandgaon Chhattisgarh.
6. Khileshwari Sahu W/o Shyamlal Sahu Aged About 24 Years R/o Villlage Singdai, Ward No. 50 Tahsil And District Rajnandgaon Chhattisgarh.
7. Madan Sahu S/o Ramhauram Aged About 54 Years City Coordinator, Village Mohad, Post Mohra, Tahsil And District Rajnandgaon Chhattisgarh.

---- Respondents

For Applicant	:	Mr. Jitendra Gupta, Adv.
For Respondents	:	Mr. Jaideep Singh Yadav, Adv.

Hon'ble Smt. Justice Rajani Dubey**C.A.V. Order**

04.12.2019

1. Heard on admission.
2. With the consent of both the parties, matter is heard finally.
3. The present petition has been filed by the applicant against the order dated 06.04.2019 passed by learned Sessions Judge, Durg in Criminal M.J.C. No. 11/2019 whereby the application of respondents (husband and his relatives) under Section 408 of Cr.P.C has been allowed by learned Court below.
4. The facts of the case are that respondents filed an application under Section 410 of Cr.P.C. before Chief Judicial Magistrate, Durg, on the ground that respondents are residents of District Rajnandgaon and applicant also resides at village Anjora District Rajnandgaon. It is an admitted fact that applicant and respondent No.-1 got married on 04.05.2017 according to Hindu Rites & Rituals. After some time, some dispute arose between the parties and, due to which, applicant left her matrimonial house and started residing at her grand-parent's house at village Anjora. Applicant filed an application under Section 12, 18, 19, 20, 21, 22 of Domestic Violence Act, 2005 before Judicial Magistrate, Patan. Applicant again filed an application under Section 125 Cr.P.C. before Family Court, Durg. As, the case of maintenance under Section 125 Cr.P.C. is pending before Family Court, Durg, respondent No.-1 filed an application under Section 410 of Cr.P.C. before Judicial Magistrate First Class, Patan on the ground that he is appearing continuously before Family Court Durg, therefore, case pending before Judicial Magistrate First Class, Patan, may be transferred to District Durg, but, learned Chief Judicial Magistrate, Durg, vide its order dated 26.02.2019, dismissed the application filed by the respondent No.1 under Section 410 of Cr.P.C. Respondent No.-1 again filed an application before learned Session Judge under Section 408 of Cr.P.C. and learned Sessions Court by impugned order dated 06.04.2019,

allowed the application of the respondent. Hence, this present revision petition filed by applicant (wife.)

5. Learned counsel for the applicant submits that the order passed by learned Session judge is bad in law as well as on the facts and circumstances of the case. He further submits that learned Court below, without considering documents available on record, exceeding jurisdiction and passed an order of transfer of the case from Patan to Durg, vide its order dated 06.04.2019, which is liable to be quashed because applicant (wife) has changed her residential address and started living at Village Mudpar, Tahsil Patan, District Durg, wherein, her another case filed under Section 12, 18, 19, 20, 21, 22 of Domestic Violence Act, 2005, is pending before Judicial Magistrate First Class, Patan.
6. On the other hand, learned counsel for the respondent supported the impugned order. In support of his argument, he placed reliance on the order dated **12.12.2018** passed in **T.P.(C) No. 68/2018** by this Court.
7. Heard learned counsel for the parties and perused the material on record including the impugned order
8. Considering the facts and circumstances of the case and further considering the documents available on record, it is clear that one case of maintenance under Section 125 Cr.P.C. is pending before Family Court, Durg and another case filed under Section 12, 18, 19, 20, 21, 22 of Domestic Violence Act, 2005, is pending before Judicial Magistrate First Class, Patan District Durg. Though, the documents filed by the applicant shows that she has changed her residential address and started living at Village Mudpar, Tahsil Patan, District Durg, but learned Sessions Judge has given a reasoned finding on the basis of statement of applicant that the applicant from her childhood has been residing along with her grand-parents at Village Anjora, District Rajnandgaon. On the other hand, respondents are also residing in District Rajnandgaon. So, it would be convenient

for both the parties if both the cases may be heard by the Court of Durg.

9. Learned Sessions Judge found that applicant was living at village Anjora District Rajnandgaon and transferred the case pending before Judicial Magistrate First Class, Patan, District Durg to Durg Court. Looking to the facts and circumstances and the evidence filed by both the parties, it is clear that the order passed by the Sessions Court, Durg vide its order dated 06.04.2019 is just and proper and requires no interference by this Court.
10. Accordingly, this revision has no substance and it is liable to be and is hereby dismissed.

**Sd/-
(Rajani Dubey)
JUDGE**