

AFR**HIGH COURT OF CHHATTISGARH, BILASPUR****TPC No. 39 of 2018**

Smt. Priyanka Singh, W/o Rohit Raj Singh, aged about 31 years, R/o through Yadvendra Pratap Singh, Ganjpara, Banstal Station Road, Police Station Ganj, Raipur, District Raipur (CG).

---- Applicant**Versus**

Rohit Raj Singh, S/o late Umashankar Singh, aged about 31 years, R/o Plot No.3/309, Street No.2, Pushpak Nagar, Police Station Mohan Nagar, Bhilai, District Durg (CG).

---- Non-applicant

For Applicant : Mr. Shivendu Pandya, Advocate
 For Non-applicant : Mr. Pragalbha Sharma, Advocate appears on behalf of Mr. Rahul Tamaskar, Advocate

Hon'ble Shri Sharad Kumar Gupta, Judge**ORDER ON BOARD****12.12.2019**

1. The matter is heard finally.
2. The applicant has preferred this TPC under Section 24 of the Civil Procedure Code, 1908 (in short 'CPC') for transfer of Civil Suit No.389/2017 (**Rohit Raj Singh -Vs- Smt. Priyanka Singh**) pending before the Principal Judge, Family Court, Durg to the Principal Judge, Family Court, Raipur.
3. In brief, the applicant's case is that she is legally wedded wife of non-applicant. She is resident of Raipur, whereas he is the resident of Durg. Her marriage was solemnized with him under the Hindu Marriage Act. He has filed an application under Section 12 of the Hindu Marriage Act, 1955 before the Principal Judge, Family Court, Durg, which was registered as Civil Suit No.389/2017. She has also filed an application under Section 125 of the Code of Criminal Procedure (in short 'CrPC') before the Principal Judge, Family Court, Raipur. On her report, a criminal case is pending before the Judicial Magistrate First Class, Raipur against him and his family members. She is living along with her father, who is an old person. Being a lady, she felt difficulty to go to Durg from Raipur to attend the Court proceedings. She is suffering from some medical problems. If she will

go to Durg, then her life might come in danger.

4. Counsel for the non-applicant submitted that the non-applicant is ready to pay travel expenses and other expenses to the applicant. The distance between from Raipur to Durg is very short. First the non-applicant had filed the said application and later on, the applicant filed the application under Section 125 of CrPC and lodged the said report against him.
5. Counsel for the applicant, in support of case, placed reliance on the order of co-ordinate bench of this Court dated 02.07.2015 passed in the matter of **Smt. Preeti Tiwari -Vs- Naveen Kumar Tiwari** in TPC No.8/2015.
6. In the matter of **Anindita Das -v- Srijit Das** reported in **[(2006) 9 SCC 197]** Hon'ble Supreme Court in para Nos. 1, 2, 3, 4, 5, & 6 observed that:-

“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. In the case in hand, the distance between from Durg to Raipur is about 40 kms. Durg is well connected route with Raipur by train. There are frequent trains available for traveling from Durg to Raipur and vice versa. Frequent public transport service is also available for traveling from Durg to Raipur and vice versa.
8. There is no material available on record on the strength of which it can be said that if she will go to Durg, then her life might come in danger.
9. There is no material available on record on the strength of which it can be said that she is allegedly suffering from any health problem on account of which she cannot travel in such a short distance.
10. Moreover, it is not compulsory for applicant to appear each and every date in the said case before the Principal Judge, Family Court, Durg. Moreover, she can claim the traveling expenses from the non-applicant.
11. Looking to the above mentioned facts and circumstances of the case, this Court finds that the balance of convenience is not in favour of the applicant. Thus, she does not get any help from the aforesaid order of co-ordinate bench of this Court passed in the matter of **Smt. Preeti Tiwari** (supra). The aforesaid observation made by Hon'ble Supreme Court in the matter of **Anindita Das** (supra) goes against her.
12. Looking to the above mentioned facts and circumstances of the case,

this Court finds that no sufficient ground exists in favour of the applicant on the strength of which the said civil suit may be transferred from the Principal Judge, Family Court, Durg to the Principal Judge, Family Court Raipur.

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

14. In view of above order, I.A. No.1/2018 also stands disposed of.

15. No order as to costs.

Sd/-
(Sharad Kumar Gupta)
Judge

L/-