

AFR**HIGH COURT OF CHHATTISGARH, BILASPUR****TPC No. 2 of 2020**

Smt. Preeti Shaw (Gupta) W/o Ashish Kumar Shaw Aged About 30 Years
R/o C/o Shri Harigobind Prasad (Father), Ward No. 37, Mahamaya Ward,
Mahamaya Road, Ambikapur, District - Surguja, Chhattisgarh

---- Applicant**Versus**

Ashish Kumar Shaw S/o Sashank Shekhar Shaw Aged About 31 Years R/o
C - 11, Green Valley Colony, Vishal Nagar, Purena, Telibhanda, Ravigram,
Brindavangad, Raipur, Chhattisgarh.

---- Non-applicant

For applicant	: Shri Saurabh Dangi, Adv.
For Non-applicant	: Shri Ashish Gupta, Adv.

Hon'ble Shri Sharad Kumar Gupta, Judge**ORAL ORDER****26-8-2020**

1. Applicant has preferred this TPC under Section 24 of the Civil Procedure Code (in short 'CPC') for transfer of Civil Suit No. 1045/2019 pending before the Principal Judge, Family Court, Raipur (CG) (Ashish Kumar Shaw -v- Smt. Priti Shaw (Gupta)) to the Family Court, Ambikapur, Distt. Sarguja.
2. In brief, the applicant's case is that she is legally wedded wife of non-applicant. Now she is residing at Ambikapur along with her parents, whereas he is resident of Raipur (CG). On her complaint one criminal case under Section 12 of the Protection of Women from Domestic Violence Act, 2005 is pending against him before the CJM, Ambikapur. On his application, the case under Section 13 of the Hindu Marriage Act is pending before the Principal Judge, Family Court, Raipur. She is solely dependent on her parent and does not have any income. The distance from Ambikapur to Raipur is 330 km. and it would be difficult for her to go to Raipur to attend the proceedings of the Court.
3. Counsel for the applicant submitted that looking to the convenience of the applicant the said case may be transferred.
4. Counsel for the non-applicant submitted that there is possibility of beating to the non-applicant if he will go to Ambikapur to attend the proceedings of the Court. Hence, the case may be transferred to any place between Raipur to Ambikapur.
5. Counsel for the applicant submitted in rebuttal that aforesaid apprehension is without any foundation.
6. Counsel for the applicant placed reliance on a decision of Hon'ble Supreme Court in the matter of **Rajani Kishor Pardeshi -v- Kishor Babulal Pardeshi**

[(2005) 12 SCC 237] in which it has been observed that the convenience of wife is to be preferred over the convenience of the husband.

7. Hon'ble Supreme Court in the matter of **Sumita Singh -v- Kumar Sanjay and another** [(2001) 10 SCC 41] has observed that if husband files suit against wife, then convenience of wife must be looked into.

8. There is no such material available on strength of which it can be said that there is possibility that the non-applicant may be beaten if he will go to attend the proceedings at Ambikapur. Therefore, it would not be proper that the case may be transferred to any place situated between Raipur and Ambikapur. Hence, this Court disallows the arguments raised by the counsel for the non-applicant.

9. Ambikapur is 333 km far away from Raipur. There are no frequent trains and buses between Ambikapur and Raipur.

10. Being a lady it would be inconvenient for the applicant to travel from Ambikapur to Raipur and vice versa.

11. Looking to the above mentioned facts and circumstances of the case this Court finds that balance of convenience is in favour of the applicant. Hence, the aforesaid judicial precedent laid down by Hon'ble Supreme Court in the matter of **Rajani Kishor Pardeshi** (supra) and **Sumita Singh** (supra) are applicable in favour of the applicant.

12. Consequently, the instant transfer petition is allowed. It is ordered that the Civil Suit No. 1045/2019 pending before the Principal Judge, Family Court, Raipur be transferred to Family Court, Ambikapur Distt. Sarguja (CG) for its trial/ disposal in accordance with law. The Principal Judge, Family Court, Raipur is directed to transmit the record of the above case to the Family Court, Ambakapur, distt. Sarguja.

13. In view of above order, I.A. No. 1/2020 stands disposed of.

14. No order as to costs.

Sd/-
(Sharad Kumar Gupta)
Judge