

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**TPCR No. 2 of 2018**

- Smt. Chandani Sharma W/o Shri Ganesh @ Gajendra Sharma Aged About 28 Years R/o.- Village- Belargaon, Near Danteshwari Temple, Bus Stand, Belargaon, Police Station- Sihawa, District- Dhamtari, Present Address- Behind Netaji Bagicha, Gudiyaari, Raipur, District- Raipur, Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through- The Station House Officer- Police Station- Sihawa, District- Dhamtari, Chhattisgarh.,
2. Ganesh @ Gajendra Sharma S/o Shri Jagdish Prasad Sharma Aged About 32 Years R/o.- Village- Belargaon, Near Danteshwari Temple, Bus Stand, Belargaon, P.S. Sihawa, District- Dhamtari, Chhattisgarh.
3. Jagdish Prasad Sharma S/o Shri Chhaju Lal Sharma Aged About 62 Years R/o.- Village- Belargaon, Near Danteshwari Temple, Bus Stand, Belargaon, P.S. Sihawa, District- Dhamtari, Chhattisgarh.
4. Smt. Geeta Sharma W/o Shri Jagdish Prasad Sharma Aged About 58 Years R/o.- Village- Belargaon, Near Danteshwari Temple, Bus Stand, Belargaon, P.S. Sihawa, District- Dhamtari, Chhattisgarh
5. Ku. Punam Sharma D/o. Jagdish Prasad Sharma Aged About 34 Years R/o.- Village- Belargaon, Near Danteshwari Temple, Bus Stand, Belargaon, P.S. Sihawa, District- Dhamtari, Chhattisgarh.,
6. Radheshyam Sharma S/o Shri Chhaju Lal Sharma Aged About 60 Years R/o.- Flat No. 217, Second Floor, Mahalaxmi Enclave, Mahal Ghasidas Ward, Sihawa Road, Dhamtari, District- Dhamtari, Chhattisgarh.

---- Respondents

For Petitioner	: Shri A.N.Bhakta, Advocate assisted by Shri Vivek Bhakta, Advocate
For Respondent No.1/State	: Shri Rakesh Sahu, Dy.GA
For Respondent No.2 to 6	: Shri Shivendu Pandya, Advocate

Hon'ble Smt. Justice Rajani Dubey

Order On Board

26/11/2020

Petitioner/complainant has filed the instant petition under Section 407 of the Cr.P.C. for transfer of Criminal Case No. 125/2017 pending before the Judicial Magistrate First Class, Nagri, district Dhamtari to any court of District Raipur.

Prosecution case in short, is that petitioner/complainant is the wife of respondent No.2, daughter-in-law of respondents 3,4 and 6 and sister-in-law of respondent No.5. Marriage of the complainant and respondent No.2 was solemnized on 19.05.2015 and soon after marriage, she was subjected to harassment and cruelty for demand of dowry by her in-laws. Further, on account non-fulfillment of the same, she was thrown out of her matrimonial home and since then, she is living with her parents at Raipur. The petitioner has lodged a written report against the respondents in the Mahila Thana, Raipur which was registered under 0 by the concerned police station. Thereafter, the case was transferred to police station Sihawa, district Dhamtari and FIR was registered vide Crime No. 88/2016 on 28.10.2016. After completion of investigation, charge sheet was filed against the respondents 2 to 6 for the offences punishable under Section 498-A/34 IPC read with Section 3 and 4 of the Dowry Prohibition Act, 1961 before the Judicial Magistrate First Class, Nagri, district Dhamtari vide Cr. Case No. 125/2017.

It has been argued by counsel for the petitioner that the

petitioner is a lady and the distance from Raipur to Nagri is about 125 kms. and Nagri is situated in a very remote forest area, highly naxalite affected and proper connectivity of transport service is not available on the route. It is further argued that normally after 4.00 p.m. bus service is not available and journey of a lady is also not possible, therefore looking to the inconvenience, the case may be transferred from Link Court, Nagri District Dhamtari to any court of district Raipur. It is also submitted that many other cases between the parties are pending in the court of Raipur and therefore this case may also be transferred to Raipur court. In support of his contention he has relied upon the judgment of the Apex Court in the matter of **Rupali Devi Vs. State of Uttar Pradesh (2019) 5 SCC 384; Priti Kumari Vs. State of Bihar and Others (Cr. Appeal No. 1387 of 2019, Special Leave to Appeal (Crl.) No. 712/2018)** and in the matter of **Smt.Smriti Pathak Vs. Rohit Tiwari and Others vide order dated 05.09.2019 passed in M.Cr.C. No. 20894/2018 by the High Court of M.P. Principal Seat at Jabalpur.**

On the other hand, counsel for the respondents has strongly opposed the petition for transfer.

Heard counsel for the parties and perused the material available on record.

It is admitted that the petitioner/complainant is the wife of respondents No.2 and daughter in law of respondents 3,4 and 6 who lodged the report against respondents before the Mahila Thana, Raipur. Thereafter, her complaint was transferred to police station Sihawa, district Dhamtari for further investigation and after completion

of investigation, charge sheet has been filed before the court of Judicial Magistrate First Class Nagri, district Dhamtari. It is also admitted that the petitioner/complainant is a lady and she is living with her parents at Raipur. The principal with regard to place of registration of case under Section 498-A IPC by a woman became settled in the case of Rupali Devi Vs. State of UP (supra) and according to which a woman can file case wherever she takes shelter after leaving her matrimonial home. Thus, in view of the judgment of the Apex Court and also the High Court of M.P. in Smt. Smriti Pathak Vs. Rohit Tiwari and Others and looking to the fact that other cases are pending in the Court at Raipur, the present petition is allowed and the Criminal Case No. 125/2017 is transferred from the court of Judicial Magistrate First Class, Nagri, district Dhamtari to the court of Chief Judicial Magistrate, district Raipur.

Parties shall appear before the Court of CJM, Raipur on 4th February 2021.

Sd/-

(Rajani Dubey)
Judge