

AFR**HIGH COURT OF CHHATTISGARH, BILASPUR****TPC No. 55 of 2019**

Smt. Rajni Agrawal W/o Satish Agrawal Aged About 32 Years D/o Late Sajan Kumar, R/o Village Pasan (Pendra), District Bilaspur Chhattisgarh, At Present R/o Janakpur Road, Near Charodham Mandir, Takhatpur, Police Station Takhatpur, District Bilaspur Chhattisgarh, At Present R/o Bansal Hardware, Village Suttara (Katghora), District Korba Chhattisgarh., District : Korba, Chhattisgarh

---- Applicant**Versus**

Satish Agrawal S/o Radheshyam Agrawal Aged About 42 Years R/o Janakpur Road, Near Charodham Mandir, Takhatpur, Police Station Takhatpur , District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Non-applicant

For applicant	: Shri Sudhir Kumar Bajpai, Adv.
For Non-applicant	: Shri Hemant Kesharwani, Adv.

Hon'ble Shri Sharad Kumar Gupta, Judge**ORAL ORDER****3-1-2020**

1. Applicant has preferred this TPC under Section 24 of the Civil Procedure Code (in short 'CPC') for transfer of Case No. 16-A/2019 pending before the Addl. Principal Judge, Family Court, Bilaspur (CG) (Satish Agrawal -v- Smt. Rajni Agrawal) to the Family Court, Katghora, Distt. Korba.
2. In brief, the applicant's case is that she is legally wedded wife of non-applicant. Now she is residing at village Sutarra, Tehsil Katghora, Distt. Korba, whereas he is resident of Takhatpur, Distt. Bilaspur. She has filed an application under Section 125 of Cr.P.C. before Family Court, Camp Katghora which is still pending. She has also filed an application under the provisions of Protection of Women Domestic Violence Act, 2005 before the JMFC Katghora which is still pending. He has also filed an application under Section 13 of the Hindu Marriage Act which is pending before the Addl. Principal Judge, Family Court, Bilaspur. She is under the threat and fear that he and his family members can take any coercive steps to prevent her to appear before the Addl. Principal Judge, Family Court, Bilaspur. She is

unable to bear journey expenses for Bilaspur. She is physically unable for travelling as she is 42% permanently disabled for walking frequently. From her residence to Bilaspur distance is about 85 km. It would be hardship for her to go to Bilaspur.

3. In brief, non-applicant's case is that applicant is residing at village Pasan, Pendra, Distt. Bilaspur. He is suffering from heart ailment. His old parents are living with him.

4. Counsel for the applicant drew my attention on Annexure P-3, Annexure P-4 and Annexure P-5 (collectively).

5. Counsel for the non-applicant drew my attention on Annexure R-1, Annexure R-2.

6. Counsel for the non-applicant placed reliance on the decision of Hon'ble Supreme Court in the matter of **Neha Arun Jugadar and another -v- Kumari Palak Diwanji** [2011(3) CGLJ SN 4 (SC)] wherein it has been laid down that :-

“An order of transfer of a case can be passed where both the Court namely the transferor Court as well as the transferee Court have jurisdiction to hear the case.”

7. In the case in hand, the Principal Judge, Family Court, Bilaspur and Link Court, Family Court, Katghora both have jurisdiction to deal with the matrimonial cases. Thus, the non-applicant does not get any help from the aforesaid judicial precedent laid down by Hon'ble Supreme Court in **Neha Arun Jugadar's** case.

8. 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.

9. Hon'ble Supreme Court in the matter of **Rajani Kishor Pardeshi -v- Kishore Babulal Pardeshi** [(2005) 12 SCC 237] has observed that the convenience of wife is to be preferred over the convenience of the husband.

10. As per Annexure P-4, now applicant is residing at village Sutarra, Tehsil Katghora, Distt. Korba. Same fact reveals from Annexure P-5. Moreover, non-applicant failed to file any document wherein it has been mentioned that now a days she is residing at village Pasan. Thus, this Court finds that now a days applicant is living at village Sutarra, Tahsil Katghora, Distt. Korba.

11. From village Sutarra to Bilaspur distance is about 85 km.

12. Prima facie it appears that applicant is suffering from disability.
13. There is no train route between Sutarra/Katghora to Bilaspur.
14. There is no such material available on record on strength of which it can be said that non-applicant is suffering from such heart problem that his life would be in danger even due to short journey.
15. Having old parents itself is not a sufficient ground on the basis of which it can be said that non-applicant cannot travel for such a short distance.
16. Looking to the above mentioned facts and circumstances of the case, looking to the aforesaid observations, this Court finds that in the case in hand, the convenience of the applicant has to be given preference over the convenience of the non-applicant.
17. Consequently, the instant transfer petition is allowed. It is ordered that the case No. 16-A/2019 pending before the Addl. Principal Judge, Family Court, Bilaspur be transferred to Link Court, Family Court, Katghora, Distt. Korba (CG) for its trial/ disposal in accordance with law. The Family Court, Bilaspur is directed to transmit the record of the above case to the Link Court, Family Court, Katghora, Distt. Korba.
18. In view of above order, I.A. No. 1/2019 stands disposed of.
19. No order as to costs.

Sd/-
(Sharad Kumar Gupta)
Judge