

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**TPC No. 68 of 2019**

- Smt. Shradha Masih (Chouhan), W/o Vikash Chouhan, D/o Shailendra Masih, aged about 24 years, Occupation - House Wife, Through her Legal Guardian Shri Shailendra Masih S/o Late Neelkanth Masih, aged about 52 years, R/o village Shantipur, Boridkhurd, Tahsil & District Dhamtari (C.G.) (Resident is as per the application u/s 125 of Cr.P.C.) **(Non-Applicant)**

---- Petitioner**Versus**

- Vikash Chouhan, S/o Vinod Chouhan, aged about 31 years, Occupation - Private Job/Service, R/o Jhalmala, Chowki - Jutmil, Tahsil - Pusour, District - Raigarh (C.G.) **(Applicant)**

---- Respondent

For Petitioner	:	Shri Shivendu Pandya, Advocate
For Respondent	:	Shri Sanjeev Sahu on behalf of Shri Manoj Kumar Jaiswal, Advocates

Hon'ble Smt Justice Rajani Dubey**Order on Board****25/11/2020**

1. This is a petition under Section 24 of the Code of Civil Procedure, 1908 (in short 'CPC) seeking transfer of Civil Suit Case No.105A/2019 (Vikash Chouhan Vs. Smt. Shradha Masih (Chouhan)), pending before Family Court, Raigarh, District Raigarh to the Family Court Dhamtari, District Dhamtari.
2. Brief facts of the case are that the marriage of Smt. Shradha Masih (Chouhan) applicant herein was solemnized with the non-applicant Vikash Chouhan on 18.01.2019 at Mennonite Church, Shantipur, Dhamtari, District Dhamtari (C.G.) according to Christian custom, right and rituals. During the subsistence of marriage, on 19.06.2019, the respondent/non-applicant has filed an application under Section 18 of the Divorce Act, 1869 before the learned Judge, Family Court,

Raigarh, District Raigarh (C.G.) for taking the divorce and declaration the marriage between the respondent and applicant null and void on the ground that the applicant herein is suffering from mental disease. Upon receipt of the notice from the Family Court, Raigarh, she has entered into appearance and some mediation proceedings were also conducted by the learned Judge, Family Court, Raigarh but all the efforts went into vain. The case of respondent husband is fixed for reply of the applicant herein. On 29.06.2019, the applicant herein has also filed an application under Section 125 of Cr.P.C. for maintenance along with application of Stri Dhan before the Family Court, Dhamtari, District Dhamtari, which is still pending in the Family Court. Now, she has filed the instant petition before this Court stating *inter alia* that presently she is residing with her parents at village Shantipur, Boridkhurd, Tahsil & District Dhamtari, respondent/husband has extended the threat of life to the applicant herein and there is no person to accompany her to attend the Court at Raigarh, therefore, the Case No.105A/2019 pending before the file of Family Court, Raigarh be transferred to the file of Family Court, Dhamtari for hearing and disposal in accordance with law.

3. Shri Shivendu Pandya, learned counsel for the applicant submits that the applicant/wife along with her old aged parents is residing at village Shantipur, Boridkhurd, Tahsil & District Dhamtari. The distance between Shantipur, Boridkhurd, Dhamtari to the Family Court, Raigarh, where matrimonial suit has been instituted by respondent/husband is more than 400 kms. There is no proper connectivity on the above route and normally the transport services are not easily available in the evening time after attending the hearing date in the Court. Referring the decision of this Court in the matter of **Shiromani Singh Vs. Narendra** reported in **2014(2) C.G.L.J. 360**, learned counsel for the applicant submits that convenience of wife is relevant factor over the convenience of the husband. Therefore, application for divorce pending in the file of Family Court, Raigarh be

transferred to the file of Family Court, Dhamtari.

4. Replying the contention so raised, Shri Sanjeev Sahu, counsel appearing on behalf of Shri Manoj Kumar Jaiswal, counsel, submits that there is no threat to her while appearing before the Family Court at Raigarh.
5. I have heard learned counsel for the parties and considered the rival submission and have perused the memo of petition and other papers.
6. Admittedly, the distance between Shantipur, Boridkhurd, Dhamtari, where the applicant/wife is residing with her parents, to the Family Court, Raigarh is about 400 kms. It is stated at bar that there is no proper connectivity of transportation on the said route, and at evening time, after attending the hearing, the transport services are not easily available. Being a lady it would be highly inconvenient for the applicant to travel alone from Dhamtari to Raigarh and vice versa especially at evening after attending the hearing.
7. Hon'ble Supreme Court in the matter of **Rajani Kishore Pardeshi Vs. Kishor Babulal Pardeshi** reported in **2005 12 SCC 23**, has observed that the convenience of wife is to be preferred over the convenience of the husband. Further, Hon'ble Supreme Court in the matter of **Sumita Singh Vs. Kumar Sanjay and another** reported in **2001 10 SCC 41**, has observed that if husband files suit against wife, then convenience of wife must be looked into.
8. Thus, having ascertained the legal position, as aforesaid and keeping in view the law laid down in aforesaid cases, and particularly, keeping in view that distance between Shantipur, Boridkhurd, Dhamtari to Family Court, Raigarh is about 400 kms. and there is no proper connectivity of transportation and non availability of buses at evening after attending the hearing, the instant transfer petition deserves to be and is hereby allowed. It is directed that Civil Suit Case No.105A/2019 (**Vikash Chouhan Vs. Smt. Shradha Masih (Chouhan)**) filed for divorce under Section 18 of the Divorce Act, 1869 by respondent/husband before the Family Court,

Raigarh is hereby withdrawn from the said Court and same is transferred to the file of Family Court Dhamtari, for hearing and disposal in accordance with law.

9. Parties shall appear before the Family Court, Dhamtari on **04.02.2021**.

Certified copy as per rules.

Sd/-
(Rajani Dubey)
Judge

Pekde