

AFR**HIGH COURT OF CHHATTISGARH, BILASPUR****TPC No. 101 of 2019**

Smt. Ritu Sonber, aged about 37 years, W/o Nitin Sonber, D/o late Saroj Hiradhar, R/o Tarbahar Naka, Indira Colony, Bilaspur at present R/o B-26, Type-2, B.MH.RC Campus, Thana Nishadpur, Bhopal, District Bhopal (M.P.).

---- Applicant**Versus**

Nitin Sonber, aged about 42 years, S/o J.L. Sonber, By caste Christian, R/o Behind Kali Mandir, Sorid Nagar, Dhamtari District Dhamtari (CG).

---- Non-applicant

For Applicant	:	Mr. Parag Kotecha, Advocate
For Non-applicant	:	None present, though served.

Hon'ble Shri Sharad Kumar Gupta, Judge**ORDER ON BOARD****14.02.2020**

1. The matter is heard finally.
2. Applicant has preferred this TPC under Section 24 of the Civil Procedure Code (in short, 'CPC') for transfer of Civil MJC No.15/2019 pending before the Family Court, Dhamtari (CG) (Nitin Sonber -Vs- Smt. Ritu Sonber) to the Family Court, Bilaspur (CG).
3. In brief, the applicant's case is that she is legally wedded wife of non-applicant. She is resident of Bhopal, whereas he is resident of Dhamtari. She has filed an application under Section 10 of Indian Marriage Act, 1869 (for short, 'IMA') which is pending before the Family Court at Bilaspur. He had also filed an application under Section 13 of IMA, which was registered as Civil Suit No.16-A/2019. The said civil suit was dismissed in default and, thereafter, he filed an application under Order 9 Rule 9 of CPC for the restoration of the said civil suit which is pending before Family Court at Dhamtari.
4. Counsel for the applicant submitted that one case is pending before the Family Court at Bilaspur. She and her family members under threat and fear of the non-applicant and his family members. Her personal safety is

also in danger. It is inconvenient for her to go to Dhamtari from Bhopal on each and every day. There is no direct transportation from Bhopal to Dhamtari and vice versa.

5. In support of case, Counsel for the applicant placed reliance on the judgment of Hon'ble Calcutta High Court in the matter of **Sudarshana Das (Hazra) Vs. Rekha Shaw & Another** reported in **(2016) 2 ICC 804**. He further placed reliance on the judgment of Hon'ble Supreme Court in the matter of **Ramchandra Aggarwal and Another Vs. State of Uttar Pradesh and Another** reported in **(1966) AIR (SC) 1888**. He further placed reliance on the order of this Court in the matter of **Smt. Pushpa Masih Vs. Kamlesh Masih** passed on 09.12.2019 in **TPC No.76/2019**.

6. In the matter of **Indian Overseas Bank, Madras Vs. Chemical Construction Company and Ors** reported in **[(1979) 4 SCC 358]** Hon'ble Supreme Court has observed that the Court should not lightly invoke its jurisdiction under Section 24 of CPC. Greater inconvenience or expenditure to one of the parties may be a factor to be considered, but it cannot be the sole ground for transferring a suit.

7. In the case in hand, there is no quarrel whether Section 24 of CPC is applicable on Civil M.J.C. also. Hence, the applicant does not get any help from the aforesaid judgment passed by Hon'ble Supreme Court in the matter of **Ramchandra Aggarwal** (supra).

8. In the matter of **Anindita Das -Vs- Srijit Das** reported in **[(2006) 9 SCC 197]** Hon'ble Supreme Court in para Nos.1 & 2 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 Vs. Rabi Shankar Mukherjee* [(2002) 10 SCC 480], *Ram Gulam Pandit Vs. Umesh J. Prasad* [(2002) 10 SCC 551] and *Rajwinder Kaur Vs. 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.”

9. In the aforesaid judgment passed by Hon'ble Calcutta High Court in

the matter of **Sudanshana Das** (supra) and order passed by this Court in the matter of **Smt. Pushpa Masih** (supra), no law has been laid down which operates as a judicial precedent. These cases have been decided on their respective facts. Thus, looking to the aforesaid observation made by Hon'ble Supreme Court in the matter of **Anindita Das** (supra), this Court finds that the applicant does not get any help from the aforesaid judgment and order.

10. Usually short question involves in the application filed under Order 9 Rule 9 of CPC. The proceedings under the sections are not complicated. Generally, such application disposed of in short span of time. Moreover, it is not necessary for the applicant to go to the Family Court, Dhamtari to attend the proceedings of the said Civil M.J.C, she can represent by her counsel also.

11. Moreover, there is no material available on record on the strength of which it can be said that during the proceedings of said civil suit and the said Civil M.J.C., non-applicant and his family members had allegedly threatened her.

12. Moreover, when she can travel from Bhopal to Bilaspur then she can further travel from Bilaspur to Dhamtari.

13. Moreover, it would be proper that the said Civil M.J.C. should be heard and disposed of by the same Court, who earlier dismissed the said civil suit for want of prosecution.

14. Looking to the above mentioned facts and circumstances of the case, this Court finds that there are no sound reasons exist in favour of the applicant for transfer of the said Civil MJC.

15. Consequently, the instant transfer petition deserves to be and is hereby dismissed.

16. I.A. No.1 stands disposed of.

17. No order as to costs.

Sd/-
(Sharad Kumar Gupta)
Judge