

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****TPC No. 4 of 2019**

- Smt. Sarita Shrivastava W/o Sanjay Shrivastava Aged About 25 Years R/o Sarju Bagicha, Masanganj, Police Station Civil Lines, Tahsil and District Bilaspur Chhattisgarh.

---- Petitioner**Versus**

- Sanjay Shrivastava S/o Pardeshi Ram Shrivastava Aged About 27 Years R/o House No. 15, Bhambhra Talab, Motwara, Tahsil Nawagarh, District Bemetara Chhattisgarh. Present Address - Sparsh Multispecialty Hospital, Ramnagar, Bhilai, District Durg Chhattisgarh.

---- Respondent

For Petitioner	:	Mr Dharmesh Shrivastava, Advocate.
For Respondent	:	Mr. Praveen Dhurandhar, Advocate

Hon'ble Smt. Justice Rajani Dubey**Order on Board****17/02/2021**

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. 314/2018 {Sanjay Sen (Shrivastava) Vs. Sarita Sen (Shrivastava)}, pending before Principal Judge, Family Court Durg, District Durg (C.G.) to Family Court, Bilaspur, District Bilaspur (C.G.)
2. Brief facts of the case are that the marriage of petitioner and respondent was solemnized on 28.04.2015 with Hindu Ritual and custom. After some time of marriage, the family members of respondent/husband started harassing the petitioner/wife mentally and physically for demand of dowry. Therefore, the petitioner/wife has filed the application under Section 498A/34 before the Police Station Civil Lines, Bilaspur (C.G.). During subsistence of marriage the petitioner had also filed an application under Section 125 of Cr.P.C. before the Principal Judge, Family Court, Bilaspur for grant of maintenance. The respondent/husband has filed an application under Section 13 of Hindu Marriage Act before

Principal Judge, Family Court Durg, District Durg (C.G.). Now, she has filed the instant transfer petition before this Court stating *inter alia* that presently she is residing at Bilaspur and she is facing great difficulties in attending proceedings before Principal Judge, Family Court Durg, District Durg (C.G.) which is near about 140 Km away from the Bilaspur Therefore, the Civil Suit Case No. 314/2018 pending before the learned Principal Judge, Family Court Durg, District Durg (C.G.) may be transferred to the Family Court Bilaspur, District Bilaspur (C.G.) for hearing and disposal in accordance with law.

3. Learned counsel for the applicant submits that the applicant/wife is residing at Bilaspur and she is facing great difficulties in attending the proceeding at Family Court Durg as the distance between Family Court, Durg, where matrimonial suit has been instituted by respondent/husband and Family Court, Bilaspur is near about 140 Kms. He further submits that it is settled position of law that the convenience of wife is relevant factor over the convenience of the husband. Therefore, application for divorce pending before Principal Judge, Family Court Durg, District Durg may be transferred to the file of Family Court, Bilaspur, District Bilaspur (C.G.).
4. On the other hand, learned counsel for the respondent/husband opposed the petition and placed reliance in the cases of ***Anindita Das Vs. Srijit Das*** passed in **(2006) 9 SCC 197 & *Krishna Veni Nagam Vs. Harish Nagam*** passed in **(2017) 4 SCC 150**.
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 Bilaspur where the applicant/wife is residing, to the Family Court, Durg is about 140 Kms. Being a lady it would be highly inconvenient for the applicant to travel alone from Bilaspur to Durg and vice versa especially at evening after attending the hearing.
7. Hon'ble Supreme Court in the matter of ***Rajani Kishore Pardeshi Vs. Kishor Babula 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 Family Court Bilaspur and Family Court Durg is about 140 Kms., the instant transfer petition deserves to be and is hereby allowed. It is directed that Civil Suit No. 314/2018 {Sanjay Sen (Shrivas) Vs. Sarita Sen (Shrivas)} filed before Principal Judge, Family Court Durg, District Durg (C.G.) is hereby withdrawn from the said Court and same is transferred to the file of Family Court Bilaspur, District Bilaspur for hearing and disposal in accordance with law. The Principal Judge, Family Court Durg, District Durg (C.G.) is directed to transmit the record of the above case to the Principal Judge, Family Court Bilaspur, District Bilaspur (C.G.). Parties to appear before the Family Court, Durg on **22.03.2021**.
9. Interlocutory application, if any, stands disposed of.
Certified copy as per rules.

**Sd/-
(Rajani Dubey)
Judge**