

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**TPC No. 6 of 2020**

- Smt. Shubhangi Sharma (After Marriage Shukla as mentioned in the Order Sheet) W/o Mayank Shukla, Aged About 25 Years, R/o C/o Vijaylakshmi Sharma, Village - Sakri, Near Middle School, Tahsil And District - Bilaspur Chhattisgarh.

---- Petitioner**Versus**

- Mayank Shukla, S/o Shri Rajendra Kumar Shukla, Aged About 33 Years, R/o Ramnagar, Kawardha, District - Kabirdham Chhattisgarh.

---- Respondent

For Petitioner	:	Shri Dharmesh Shrivastava, Advocate.
For Respondent	:	Shri Gopal Swaroop Gupta, Advocate.

Hon'ble Smt. Justice Rajani Dubey**Order on Board****22/02/2021**

1. This is a petition under Section 24 of the Code of Civil Procedure, 1908 (in short 'CPC') seeking transfer of Civil Suit No. 7A/2019 (Mayank Shukla Vs. Smt. Shubhangi Shukla), pending before learned Judge, Family Court, Kawardha, District- Kabirdham (C.G.) to Family Court, Bilaspur, District- Bilaspur (C.G.).
2. Brief facts of the case are that the marriage of Smt. Shubhangi Shukla petitioner herein was solemnized with respondent Mayank Shukla on 12.12.2016 at Raipur (C.G.) according to Hindu custom. At that time, the family members of the petitioner gave dowry to the respondent as per their demand and they gave them the entire household articles along with golden and silver ornaments and cash. The petitioner was residing with the respondent in her matrimonial house. After some time, the respondent and his family members started harassing the petitioner and she was subjected to cruelty. At that time respondent- husband filed an application under Section 13(A) of the Hindu Marriage Act,

1955 for divorce against the petitioner before the Family Court, Kabirdham (C.G.) which is pending before the learned Family Court, Kabirdham. Now, petitioner has filed the instant transfer petition before this Court stating *inter alia* that presently she is residing at Bilaspur and facing great difficulties in attending proceedings before the learned Judge, Family Court, Kawardha, District- Kabirdham (C.G.) which is near about 120 Kms away from the Bilaspur. Therefore, the Civil Suit No. 7A/2019 pending before the learned Judge, Family Court, Kawardha, District- Kabirdham (C.G.) be transferred to the Family Court, Bilaspur, District- Bilaspur (C.G.) for hearing and disposal in accordance with law.

3. Shri Dharmesh Shrivastava, learned counsel for the petitioner submits that the applicant/wife is residing at Bilaspur (C.G.) and she is facing great difficulties in attending the proceeding at learned Judge, Family Court, Kawardha, District- Kabirdham as the distance between Bilaspur to the learned Family Court, Kabirdham, where matrimonial suit has been instituted by respondent/husband is near about 120 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 under Section 13(A) of Hindu Marriage Act, 1955, pending in the file of learned Judge, Family Court, Kawardha, District- Kabirdham 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 stating that the petitioner has sufficient source of money, and, therefore, it may not be inconvenient for the petitioner to attend the proceedings at Family Court, Kawardha, District- Kabirdham (C.G.).
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, District Bilaspur, where the petitioner/wife is residing, to the Family Court, Kabirdham is about 120 Kms. Being a lady it would be highly

inconvenient for the petitioner to travel alone from Bilaspur to Kabirdham 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 aforestated and keeping in view the law laid down in aforesaid cases, and particularly, keeping in view that distance between Family Court, Bilaspur District Bilaspur to Family Court, Kawardha, District- Kabirdham is about 120 Kms., the instant transfer petition deserves to be and is hereby allowed. It is directed that Civil Suit No. 7A/2019 (**Mayank Shukla Vs. Smt. Shubhangi Shukla**) filed under Section 13(A) of Hindu Marriage Act, 1955 for dissolution of marriage before the learned Judge, Family Court, Kawardha, District Kabirdham (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 Judge, Family Court, Kawardha, District Kabirdham (C.G.) is directed to transmit the record of the above case to the Family Court, Bilaspur, District- Bilaspur (C.G.). Parties to appear before the Family Court, Bilaspur, District Bilaspur on **24.03.2021**.
9. Interlocutory application, if any, stands disposed of.
Certified copy as per rules.

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