

HIGH COURT OF CHHATTISGARH, BILASPUR**TPC No. 4 of 2021**

- Smt. Sangita Panda W/o Tikeshwar Panda Aged About 27 Years By Caste- Bramhin, R/o Village- Mohanmunda (Pandripani), Police Station And Tahsil- Saraipali, District- Mahasamund, Chhattisgarh.,

---- Petitioner**Versus**

- Tikeshwar Panda S/o Janmajaya Panda Aged About 30 Years Caste Bramhin, R/o Village- Bade Amakoni, Post- Gobarsingha, Police Station- Sariya, District- Raigarh, Chhattisgarh. **Present Address-** House Of Vidya Sahu, Janakpur, Near Bus Stand Tamnar, Police Station And Tahsil- Tamnar, District- Raigarh, Chhattisgarh, Mobile No. 8085812688,

---- Respondent

For Petitioner	: Shri S.B.Pandey, Advocate.
For Respondent	: None, though served.

Hon'ble Shri Justice Sanjay S. Agrawal**Order On Board****19.07.2021**

1. By way of this petition, the petitioner – wife sought for transfer of Civil Suit No. 43-A/2019 “Tikeshwar Panda Vs. Smt. Sangita Panda filed by respondent - husband under Section 13 (1) (i-a) of the Hindu Marriage Act before the Additional District Judge, Gharghoda, Dist. Raigarh to the Family Court Mahasamund, Camp Court at Saraipali.
2. According to the petitioner, her marriage was solemnised with the respondent on 26.04.2012 as per Hindu rites and customs and out of their wedlock, two children, namely, Aadarsh and Aarush were born. It is stated in the petition that some time after solemnisation of marriage,

the respondent – husband and his relatives started misbehaving with the petitioner and subjected her to physical and mental torture for demand of dowry. It is stated further in the application that the respondent – husband has forcibly snatched elder son from her and drove her out along with younger son from his house, because of which, she is living in her parental home along with her younger son. Further contention of the petitioner is that on 02.12.2019 her husband has initiated the proceedings under Section 13 (1) (i-a) of the Hindu Marriage Act for dissolution of the marriage before the Additional District Judge, Gharghoda, District Raigarh and after receiving notice from the said Court she has been regularly appearing before the said Court.

3. It is stated further in the petition that an application for restitution of conjugal rights has been filed by her under Section 9 of the Hindu Marriage Act before the Family Court Mahasamund, Camp Court Saraipali, which was registered as Civil Suit No.9-A/2020 and also initiated a proceeding for grant of maintenance under Section 125 of the Code of Criminal Procedure on 13.01.2020 before the said Court, i.e., Family Court Mahasamund, Camp Court Saraipali, which has been registered as M.J.C. No.01/2020. According to the petitioner, since she is living with her minor child, who is 4 years old, along with her old parents, therefore, it is very difficult for her to attend the Court of Additional District Judge, Gharghoda, Dist. Raigarh on each and every date, and therefore, praying for transfer of the said proceedings initiated by her husband at Gharghoda to the Family Court, Mahasamund, Camp Court Saraipali. In support, learned counsel appearing for the petitioner has placed his reliance upon the principles

laid down in the matter of ***Amita Shah vs. Virender Lal Shah, Sumita Singh vs. Kumar Sanjay & another*** and ***Rajani Kishor Pardeshi vs. Kishore Babulal Pardeshi*** reported in (2003) 10 SCC 609, (2001) 10 SCC 41 and (2005) 12 SCC 237 respectively.

4. No representation is made on behalf of the respondent despite service of notice upon him.
5. I have heard learned counsel for the petitioner and perused the petition along with documents annexed with it carefully.
6. Having considered the aforesaid contentions of the petitioner and considering further that since the petitioner is living along with her minor child and that her case for restitution for conjugal rights as well as the proceedings initiated by her for grant of maintenance under Section 125 of the Cr.P.C. are pending consideration before the Family Court, Mahasamund, Camp Court Saraipali, it would certainly be difficult for her to travel from Saraipali, Dist. Mahasamund and attend the proceedings as initiated by her husband before the Additional District Judge, Gharghoda, Dist. Raigarh for dissolution of marriage and also considering the principles laid down in the matter of ***Amita Shah vs. Virender Lal Shah, Sumita Singh vs. Kumar Sanjay & Another*** and ***Rajani Kishore Pardeshi vs. Kishore Babulal Pardeshi*** (supra) wherein the convenience of wife and minor children has been held to be taken into account, therefore, it would be just and proper to transfer the said Case, i.e., Civil Suit No.43-A/2019 filed by her husband before the Court of Additional District Judge, Ghardhoda, Dist. Raigarh to the Family Court, Mahasamund, Camp Court, Saraipali.

7. Consequently, the petition filed by the petitioner – wife is hereby allowed and it is directed that the Civil Suit No.43-A/2019 filed by her husband before the Court of Additional District Judge, Gharghoda, Dist. Raigarh shall stand transferred to the Family Court, Mahasamund, Camp Court Saraipali for its trial in accordance with law. The concerned Court, at Gharghoda is hereby directed to send the concerned record immediately towards the Family Court, Mahasamund, Camp Court Saraipali, who in turn, shall decide the matter in accordance with law.

Sd/-
(Sanjay S. Agrawal)
Judge