

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****TPC No. 7 of 2020**

- Smt. Meena Tiwari W/o Kamlesh Tiwari Aged About 28 Years R/o, C/o Late Shri D.P. Pandey, R/o Subhash Ward, Balodabazar, P.S. Bhatapara City, District - Balodabazar, Chhattisgarh.

---- Petitioner**Versus**

- Kamlesh Tiwari S/o Ghanshyam Tiwari, Aged About 30 Years R/o Village Karhi, Tehsil And District - Mungeli, Chhattisgarh.

---- Respondent

For Petitioner	:	Mr. Vaibhav P. Shukla, Advocate.
For Respondent	:	Mr. R.K. Pali, Advocate

Hon'ble Smt. Justice Rajani Dubey**Order on Board****29/01/2021**

1. This is a petition under Section 24 of the Code of Civil Procedure, 1908 (in short 'CPC') seeking transfer of case (unregistered) (Kamlesh Tiwari S/o Ghanshyam Tiwari Versus Smt. Meena Tiwari W/o. Kamelsh Tiwari), pending before Family Court, Mungeli, District Mungeli to Family Court, District Balodabazar (C.G.).
2. Brief facts of the case are that the marriage of petitioner herein was solemnized at Bhatapara with respondent on 09.06.2011 as per Hindu rituals and customs. After some time of marriage, the family members of respondent/husband started harassing the petitioner/wife mentally and physically for demand of dowry. During subsistence of marriage the petitioner/wife had filed MJC No. 75/2014 before the Court of JMFC Bhatapara for grant of maintenance which was allowed on 08.02.2018 granting Rs. 3,000/- per month as maintenance. The petitioner/wife has also filed an application under Section 12 of Protection of Women from Domestic Violence Act 2005 before the Judicial Magistrate First Class, Bhatapara. The respondent/husband has filed an application

under Section 13(1)(a) of the Hindu Marriage Act for dissolution of marriage by decree of divorce and notice thereof has been received by the petitioner/wife and she was required to appear on 13.01.2020. Now, she has filed the instant transfer petition before this Court stating *inter alia* that presently she is residing at Bhatapara and she is facing great difficulties in attending proceedings before the learned Family Court, Mungeli (C.G.) which is near about 66 Km away from the Bhatapara. Therefore, the case (unregistered) pending before the learned Family Court Mungeli (C.G.) be transferred to the Family Court Balodabazar (C.G.) for hearing and disposal in accordance with law.

3. Learned counsel for the petitioner submits that the petitioner/wife is residing at Bhatapara, District Balodabazar, having no source of income and she is facing great difficulties in attending the proceeding at Family Court Mungeli as the distance between Mungli to the learned Family Court Balodabazar where matrimonial suit has been instituted by respondent/husband is near about 66 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 Family Court Mungeli be transferred to the Family Court District Balodabazar (C.G.).
4. On the other hand, learned counsel for the respondent/husband opposed the petition.
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 Bhatapara, District Balodabazar where the petitioner/wife is residing, and Family Court, Mungeli is about 66 Kms. Being a lady it would be highly inconvenient for the applicant to travel alone from Bhatapara to Mungeli 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 the distance between Bhatapara, District Balodabazar and Family Court, Mungeli is about 66 Kms., the instant transfer petition deserves to be and is hereby allowed. It is directed that case (unregistered) (Kamlesh Tiwari S/o Ghanshyam Tiwari Versus Smt. Meena Tiwari W/o. Kamelsh Tiwari), pending before Family Court, Mungeli, District Mungeli is hereby withdrawn from the said Court and same is transferred to the Family Court District Balodabazar for hearing and disposal in accordance with law. The Judge Family Court Mungeli (C.G.) is directed to transmit the record of the above case to the Judge, family Court District Balodabazar. Parties to appear before the Family Court, District Balodabazar on **01.03.2021**.

9. Interlocutory application, if any, stands disposed of.
Certified copy as per rules.

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