

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**TPC No. 14 of 2020**

- In The Matter Of Suo Motu Transfer Petition Address - Nil

---- Petitioner**Versus**

1. Shri Manoj Kumar Fule S/o Late Rupchand Fule Aged About 37 Years R/o Ambedkar Chowk, Ward No. 03, Motipur, Rajnandgaon, Tahsil And District Rajnandgaon Chhattisgarh., District : Rajnandgaon, Chhattisgarh
2. Smt. Pooja Fule W/o Manoj Fule Aged About 32 Years R/o Ramnagar, Ward No. 08, Motipur, Rajnandgaon, Tahsil And District Rajnandgaon Chhattisgarh., District : Rajnandgaon, Chhattisgarh

---- Respondents**TPCR No. 9 of 2020**

- In The Matter Of Suo Motu Transfer Petition (Criminal) Address - Nil

---- Petitioner**Versus**

1. Shri Manoj Kumar Fule S/o Late Rupchand Fule Aged About 37 Years R/o Ambedkar Chowk, Ward No. 03, Motipur, Rajnandgaon, Tahsil And District Rajnandgaon Chhattisgarh., District : Rajnandgaon, Chhattisgarh
2. Smt. Pooja Fule W/o Manoj Fule, Aged About 32 Years R/o Ramnagar, Ward No. 08, Motipur, Rajnandgaon, Tahsil And District Rajnandgaon Chhattisgarh., District : Rajnandgaon, Chhattisgarh

---- Respondents

For Petitioner	:	None
For Respondent No.1	:	None, though served.
For Respondent No.2	:	Shri Shikhar Sharma, Advocate.

Hon'ble Smt Justice Rajani Dubey**Order on Board****10/03/2021**

1. The above petitions are office reference.
2. Since the parties to above transfer petitions are one and the same, these transfer petitions are being disposed of

together by this common order.

3. These two transfer petitions have been registered suo motu by this Court on the basis of a communication dated 13.01.2020 received from the Judge, Family Court, Rajnandgaon that Manoj Fule, who is posted as Driver in the establishment of Family Court, Rajnandgaon, and is driving her Govt. vehicle, has filed Civil Suit No.172-A/2018 under Section 13 of the Hindu Marriage Act, 1955 and his wife Pooja Fule has filed M.J.C. No.25/2018 and the same are fixed for final arguments on 20.01.2020, therefore, she would not like to hear the matter.

4. During pendency of the matters, comments were called from the Judge, Family Court, Rajnandgaon, mentioning the ground for transfer of the case. On 23.03.2020, comments of the Judge, Family Court, Rajnandgaon received wherein she has stated that Pooja Fule, wife of Manoj Fule, on the final argument of Civil Suit No.172-A/2018 and M.J.C. No.25/2018, has raised apprehension that since her husband Manoj Fule is posted as Driver to Judge, Family Court, Rajnandgaon, and driving her Govt. vehicle, therefore, there is every possibility of miscarriage of justice in the case. It has also been stated that she was hearing the cases as earlier no such apprehension was expressed by Smt. Pooja Fule, but at present she (Judge) wants to transfer these cases from this Court to another due to potential fear.

5. The undisputed facts of the case are that Manoj Fule has filed Civil Suit No.172-A/2018 under Section 13 of the Hindu Marriage Act, 1955. Presently, said Manoj Fule is posted as Driver to Judge, Family Court, Rajnandgaon. Pooja Fule, wife of said Manoj Fule, has also filed an application (M.J.C.No.25/2018) under Section 125 of Code of Criminal Procedure and both the aforementioned cases are pending for final arguments in the Court of Judge, Family Court,

Rajnandgaon.

6. The law with regard to transfer of cases is well-settled. A case is transferred if there is a reasonable apprehension on the part of a party to a case that justice will not be done. A petitioner is not required to demonstrate that justice will inevitably fail. The case may be transferred if there are circumstances from which it can be inferred that party to the case entertains an apprehension and that it is reasonable in the circumstances alleged. It is one of the principles of the administration of justice that justice should not only be done but it should be seen to be done. However, a mere allegation that there is apprehension that justice will not be done in a given case does not suffice. The Court has further to see whether the apprehension is reasonable or not. To judge of the reasonableness of the apprehension the state of the mind of the person who entertains the apprehension is no doubt relevant but that is not all. The apprehension must not only be entertained but must appear to the Court to be a reasonable apprehension. In the case in hand, Manoj Fule is posted as Driver to Judge, Family Court, Rajnandgaon and the apprehension has been raised by his wife that there is every possibility of miscarriage of justice. The apprehension so raised by wife of said Manoj Fule, in the opinion of this Court, is reasonable apprehension and to avoid any possibility of miscarriage of justice to any of the parties to the case, it would be proper in the interest of justice to transfer the aforementioned cases to some other Court.

7. Shri Shikhar Sharma, learned counsel for respondent No.2-Pooja Fule, submits that both the parties are residing at Rajnandgaon and the cases may be transferred to District Court, Rajnandgaon.

8. For the foregoing reasons, the aforesaid suo motu proceedings are allowed. The Civil Suit No.172-A/2018 and

M.J.C. No.25/2018 pending before the Court of Judge, Family Court, Rajnandgaon, are transferred to the Court of District Judge, Rajnandgaon, District Rajnandgaon (C.G.).

9. The copy of this order be sent to the District Judge, Rajnandgaon and Judge, Family Court, Rajnandgaon for necessary action.

Sd/-

(Rajani Dubey)
Judge

Pekde