

HIGH COURT OF CHHATTISGARH, BILASPUR**T.P(C) No.16 of 2021**

Smt. Asha Sharma, W/o Sachin Sharma, (D/o Shri R.K. Sharma), Aged About 30 Years R/o - Nayi Basti, Darripara, Ambikapur, District - Sarguja Chhattisgarh. **---- Petitioner**

Versus

Sachin Sharma S/o Shri Shiv Prakash Sharma, Aged About 35 Years R/o - Quarter No. E.W.S. 34-35, Sada Colony, Jamnipali, Police Station - Darri, Tehsil - Kathgora, District - Korba, Chhattisgarh. **---- Respondent**

For Petitioner:	Shri Pushkar Sinha, Advocate.
For Respondent:	None, though served.

Hon'ble Shri Justice Sanjay S. Agrawal

Order On Board Through Video Conference

06.07.2021

1. By way of this petition, the Petitioner – wife sought for transfer of proceedings being Civil Suit No.91-A/2019 “Sachin Sharma Vs. Smt. Asha Sharma” initiated by her husband under Section 13 of the Hindu Marriage Act, 1955 pending before the Family Court, Korba (Link Court Kathgora) to Family Court, Ambikapur.

2. According to the Petitioner, her marriage was solemnized with the Respondent on 04.02.2014 at Jamnipali, District Korba as per Hindu rites and customs and out of their wedlock, a girl namely Pari was born on 27.04.2015, who is living with her. It is stated by the Petitioner that after sometime of the marriage, she was being ill-treated not only by her husband but also by his family members and therefore, she has been constrained to initiate the proceedings under Section 12 of Protection of Women from Domestic Violence Act, 2005 before the Chief Judicial Magistrate, Ambikapur on

20.08.2019. It is contended further that immediately after filing of the said proceeding, the Respondent-husband has initiated the proceeding for dissolution of marriage under Section 13 of the Hindu Marriage Act, 1955 on 11.12.2019 before the Family Court, Korba (Link Court, Kathgora) where the case was registered as Civil Suit No.91-A/2019. Further contention of the Petitioner is that since she is having mental agony due to the ill-treatment of her husband and his family members and as she is living along with her minor child, therefore, it is difficult for her to attend the said proceedings being held at Family Court, Korba (Link Court, Kathgora) on each and every date along with her minor daughter and since her proceeding initiated under Section 12 of the Protection of Women from Domestic Violence Act, 2005 is pending before the Family Court, Ambikapur, therefore, the proceeding initiated by her husband may be transferred to the Family Court, Ambikapur. In support, learned counsel appearing for the Petitioner has placed his reliance upon the principles laid down in the matters of Amita Shah vs. Virender Lal Shah reported in (2003) 10 SCC 609, Sumita Singh Vs. Kumar Sanjay and Another reported in (2001) 10 SCC 41 and Rajani Kishor Pardeshi Vs. Kishor Babulal Pardeshi reported in (2005) 12 SCC 237.

3. No representation is made on behalf of the Respondent despite service of notice upon him.

4. I have heard learned Counsel for the Petitioner and perused the Petition along with documents annexed with it carefully.

5. Having heard learned Counsel appearing for the Petitioner and considering further that since the Petitioner is living along with her minor daughter, it would certainly be difficult for her to travel from Ambikapur and attend the proceedings as initiated by her husband before the Family Court,

Korba (Link Court, Kathgora) for dissolution of marriage and also considering the principles laid down in the matters of Amita Shah vs. Virender Lal Shah, Sumita Singh Vs. Kumar Sanjay and Another and Rajani Kishor Pardeshi Vs. Kishor Babulal Pardeshi (supra) wherein the convenience of wife and minor children has been held to be taken into account. It would, therefore, be just and proper to transfer the said Case i.e. Civil Suit No.91-A/2019 filed by the husband, pending before the Family Court, Korba (Link Court, Kathgora) to Family Court, Ambikapur.

6. Consequently, the Petition filed by the Petitioner – wife is hereby allowed and it is directed that Civil Suit No.91-A/2019 filed by her husband, pending before the Family Court, Korba (Link Court, Kathgora) shall stand transferred to the Family Court, Ambikapur for its trial in accordance with law. The concerned Family Court, Korba (Link Court, Kathgora) is hereby directed to send the concerned record immediately to Family Court, Ambikapur, who in turn, shall decide the matter in accordance with law.

Sd/-
(Sanjay S. Agrawal)
Judge