

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****TPC No. 22 of 2020**

- Smt. Naina Ambade W/o Devendra Kumar Ambade, Aged About 29 Years R/o House No. Duplex-21, Neera Enclave, Parthavi Nagar, Hirapur Road, Mohbabazar, Tehsil And District Raipur Chhattisgarh.

---- Petitioner**Versus**

- Devendra Kumar Ambade S/o Late Shri Anantram Ambade, Aged About 38 Years R/o Misia Bada, Ward No. 07, Dongargarh, Tehsil Dongargarh, District Rajnandgaon Chhattisgarh.

---- Respondent

For Petitioner	:	Mr. Sunil Verma, Advocate.
For Respondent	:	Mr. Parag Kotecha, Advocate

Hon'ble Smt. Justice Rajani Dubey**Order on Board****10.03.2021**

1. This is a petition under Section 24 of the Code of Civil Procedure, 1908 (in short 'CPC') seeking transfer of Civil Suit Case No. 8A/2019 (Devendra Kumar Ambade Vs. Smt. Naina Ambade), pending before Additional Judge, Dongargarh of First Additional District Judge, Rajnandgaon (C.G.) to Family Court, Raipur, District Raipur (C.G.)
2. Brief facts of the case are that the marriage of petitioner and respondent was solemnized on 27.02.2015 with Hindu Ritual and custom. After some time of marriage, the respondent/husband started torturing her both physically and mentally on the basis of demand of dowry. Thereafter, petitioner started residing with her parents at Raipur and during subsistence of marriage, the petitioner had filed an application under Section 125 of Cr.P.C. before the Family Court, Raipur. The respondent/husband has filed an application under Section 9 of Hindu Marriage Act, 1955 for restitution of conjugal rights against the applicant/wife before

Additional Judge, Dongargarh of First Additional District Judge, Rajnandgaon (C.G.). Now, she has filed the instant transfer petition before this Court stating *inter alia* that presently she is residing at Raipur and she is facing great difficulties in attending proceedings before Additional Judge, Dongargarh of First Additional District Judge, Rajnandgaon (C.G.) which is near about 110 Kms. away from the Raipur. Therefore, the Civil Suit Case No. 8A/2019 pending before Additional Judge, Dongargarh of First Additional District Judge, Rajnandgaon (C.G.) may be transferred to the Family Court Raipur, District Raipur (C.G.) for hearing and disposal in accordance with law.

1. Learned counsel for the applicant submits that the applicant/wife is residing at Raipur and she is facing great difficulties in attending the proceeding at Dongargarh, District Rajnandgaon (C.G.) as the distance from the Family Court, Raipur is near about 110 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 pending before Additional Judge, Dongargarh of First Additional District Judge, Rajnandgaon (C.G.) may be transferred to the file of Family Court, Raipur, District Raipur (C.G.).
2. On the other hand, learned counsel for the respondent/husband opposed the petition and placed reliance in the cases of **Anindita Das Vs. Srijit Das** passed in **(2006) 9 SCC 197 & Krishna Veni Nagam Vs. Harish Nagam** passed in **(2017) 4 SCC 150**.
3. I have heard learned counsel for the parties and considered the rival submission and have perused the memo of petition and other papers.
4. Admittedly, the distance between Raipur where the applicant/wife is residing, to the Additional Judge, Dongargarh of First Additional District Judge, Rajnandgaon (C.G.) is about 110 Kms. Being a lady it would be highly inconvenient for the applicant to travel alone from Raipur to Dongargarh, Rajnandgaon and vice versa especially at evening after attending the hearing.

5. 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.
6. 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 Raipur and Additional Judge, Dongargarh of First Additional District Judge, Rajnandgaon (C.G.) is about 110 Kms., the instant transfer petition deserves to be and is hereby allowed. It is directed that Civil Suit No. 8A/2019 (Devendra Kumar Ambade Vs. Smt. Naina Ambade), pending before Additional Judge, Dongargarh of First Additional District Judge, Rajnandgaon (C.G.) is hereby withdrawn from the said Court and same is transferred to the file of Family Court Raipur, District Raipur for hearing and disposal in accordance with law. Additional Judge, Dongargarh of First Additional District Judge, Rajnandgaon (C.G.) is directed to transmit the record of the above case to the Family Court Raipur, District Raipur (C.G.). Parties to appear before the Family Court, Raipur on **12.04.2021**.
7. Interlocutory application, if any, stands disposed of.
Certified copy as per rules.

Sd/-
(Rajani Dubey)
Judge