

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****TPC No. 27 of 2020**

- Mamta Dubey W/o Manish Dubey Aged About 30 Years R/o Ward No. 4, Khopa Mahua Jail Road, Ramanujganj, Post And Tahsil- Ramanujganj, District- Balrampur-Ramanujganj, (C.G.).

---- Petitioner**Versus**

- Manish Dubey S/o Anil Dubey Aged About 32 Years Occupation- Cumputer Operator, R/o Bauuripara, Kenabandh, Ambikapur, District- Surguja, (C.G.).

---- Respondent

For Petitioner	:	Mr. Rahul Mishra, Advocate.
For Respondent	:	None.

Hon'ble Smt. Justice Rajani Dubey**Order on Board****10/02/2021**

1. This is a petition under Section 24 of the Code of Civil Procedure, 1908 (in short 'CPC') seeking transfer of Civil Suit No. 220-A/2019 (Manish Dubey Vs. Mamta Dubey), pending before learned Family Court, Ambikapur, District-Surguja (C.G.) to the competent Court of District-Balrampur-Ramanujganj (C.G.).
2. The notice issued to the respondent received back with a note that respondent refused to accept it.
3. Brief facts of the case are that the marriage of Smt. Mamta Dubey applicant herein was solemnized with respondent Manish Dubey on 02.05.2004 at Timber Bhawan, Ambikapur according to Hindu custom and out of their wedlock a baby child was born. After some time of marriage, the respondent-husband started harassing the applicant-wife for demand of dowry and expelled her from the matrimonial house. Since the applicant-wife was expelled from the matrimonial house by the respondent, the applicant-wife and respondent-husband are living separately. The applicant-wife is residing in her parental house. The applicant-wife and her minor children filed an application under Section 125 of Cr.P.C. for grant of maintenance against the

respondent-husband and the concerned Court has allowed the same to the tune of Rs. 3000-3000/- in favour of applicant-wife and her minor son since 1st November, 2015, but the respondent-husband is not regularly paying the maintenance amount to the applicant-wife and her child. Therefore, the applicant-wife and her child have filed execution application, which is pending before the learned Chief Judicial Magistrate, Balrampur at Ramanujganj in unregistered Misc. Criminal Case / 2018 and the concerned Court has issued levy warrant against the respondent-husband from time to time. The respondent-husband filed an application under Section 13 (i) (a) of Hindu Marriage Act, 1955 for dissolution of marriage by decree of divorce before the learned Family Court, Ambikapur, District-Surguja (C.G.) which is pending before the learned Family Court, Ambikapur, District Surguja. Now, petitioner has filed the instant transfer petition before this Court stating *inter alia* that presently she is residing at Ramanujganj (C.G.) and she is facing great difficulties in attending proceedings before the learned Family Court, Ambikapur, District Surguja (C.G.) which is near about 200 Km away from the Ramanujganj. Therefore, the Civil Suit No. 220-A/2019 pending before the learned Family Court, Ambikapur, District-Surguja (C.G.) may be transferred to the competent Court of District-Balrampur-Ramanujganj (C.G.) for hearing and disposal in accordance with law.

4. Mr. Rahul Mishra, learned counsel for the applicant submits that the applicant/wife is residing at Ramanujganj (C.G.) and she is facing great difficulties in attending the proceeding at Family Court, Ambikapur as the distance between Ramanujganj to the learned Family Court, Ambikapur, where matrimonial suit has been instituted by respondent/husband is near about 200 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 in the file of Family Court, Ambikapur, District-Surguja be transferred to the file of competent Court of District-Balrampur-Ramanujganj (C.G.).
5. I have heard learned counsel for the petitioner, considered the rival submission and have perused the memo of petition

including other papers.

6. Admittedly, the distance between Ramanujganj, District Balrampur-Ramanujganj, where the applicant/wife is residing, to the Family Court, Ambikapur, District-Surguja is about 200 Kms. Being a lady it would be highly inconvenient for the applicant to travel alone from Ramanujganj to Ambikapur 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 distance between Ramanujganj, District Balrampur-Ramanujganj to Family Court, Ambikapur, District-Surguja is about 200 Kms., the instant transfer petition deserves to be and is hereby allowed. It is directed that Civil Suit No. 220-A/2019 (**Manish Dubey Vs. Mamta Dubey**) filed for divorce under Section 13 (i) (a) of Hindu Marriage Act, 1955 by respondent/husband before the learned Family Court, Ambikapur, District Surguja (C.G.) is hereby withdrawn from the said Court and same is transferred to the file of competent Court of District Balrampur-Ramanujganj, for hearing and disposal in accordance with law. The Judge Family Court, Ambikapur, District Surguja (C.G.) is directed to transmit the record of the above case to the competent Court of District Balrampur-Ramanujganj (C.G.). Parties to appear before the competent Court of District Balrampur-Ramanujganj on **08.03.2021**.
9. Interlocutory applications, if any, stands disposed of.
Certified copy as per rules.

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

