

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****TPC No. 44 of 2021**

- Smt. Venu (Anjali) W/o Tarun Kumar Kashyap, Aged About 28 Years R/o Near Bajrang Chauk, Tehsil And District Gariyaband (Chhattisgarh) Presntly Residing Through Santram Ambade, Labor Colony, Rajnandgaon, Tehsil And District Rajnandgaon Chhattisgarh.

---- Petitioner**Versus**

- Tarun Kumar Kashyap S/o Keshav Kashyap, Aged About 31 Years R/o Near Bajrang Chauk, Ward No. 12 Gariyaband, Tehsil And District Gariyaband Chhattisgarh.

---- Respondent

For Petitioner	:	Mr. S. S. Baghel, Advocate.
For Respondent	:	Mr. Manoj Kumar Dubey, Advocate

Hon'ble Smt. Justice Rajani Dubey**Order on Board****26.11.2021**

1. This is a petition under Section 24 of the Code of Civil Procedure, 1908 (in short 'CPC') seeking transfer of Hindu Marriage Case No. 15/2021 (Tarun Kumar Kashyap v. Smt. Venu (Anjali), pending before the Additional District Judge, Gariyaband (C.G.) to Family Court, Rajnandgaon (C.G.)
2. Brief facts of the case are that the marriage of petitioner and respondent was solemnized on 16.04.2017 with Hindu Ritual and Custom. After some time of marriage, the respondent/husband as well as his family members started harassing her for brining less dowry. On 26.08.2018 the petitioner was blessed with a girl child. On September 2020, the petitioner was diagnosed with symptoms of HIV thereafter respondent and his parents forced her to live with her parents at Rajnandgaon and ousted her with her daughter from her matrimonial house. Thereafter, the respondent filed a case against the petitioner under Section 13(1) of the Hindu Marriage Act before the Additional Sessions Judge at

Gariyaband (C.G.). Now, she has filed the instant transfer petition before this Court to transfer the Hindu Marriage Case No. 15/2021 pending before the Additional District Judge, Gariyaband (C.G.) to the Family Court Rajnandgaon, District Rajnandgaon (C.G.) for hearing and disposal in accordance with law.

3. Learned counsel for the applicant submits that the applicant/wife is residing at Rajnandgaon and she is facing great difficulties in attending the proceeding at Gariyaband, (C.G.) as the distance from the Rajnandgaon is near about 160 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 the Additional District Judge, Gariyaband (C.G.) may be transferred to Family Court, at Rajnandgaon (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 Rajnandgaon where the applicant/wife is residing, to the Additional District Judge, Gariyaband (C.G.) is about 160 Kms. Being a lady it would be highly inconvenient for the applicant to travel alone from Rajnandgaon to Gariyaband 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

Rajnandgoan where the applicant/wife is residing, to the Additional District Judge, Gariyaband (C.G.) is about 160 Kms., the instant transfer petition deserves to be and is hereby allowed. It is directed that Hindu Marriage Case No. 15/2021 (Tarun Kumar Kashyap v. Smt. Venu (Anjali), pending before the Additional District Judge, Gariyaband (C.G.) is hereby withdrawn from the said Court and same is transferred to the to Family Court, Rajnandgaon (C.G.) for hearing and disposal in accordance with law. Additional District Judge, Gariyaband (C.G.) is directed to transmit the record of the above case to the Family Court Rajnandgaon (C.G.). Parties to appear before the Family Court, Rajnandgaon on **05.01.2022.**

9. Family Court, Rajnandgaon is directed to expedite the trial and conclude the same as early as possible, preferably within a period of six months from the date of appearance of the parties i.e. 05.01.2022.
10. Interlocutory application, if any, stands disposed of.
Certified copy as per rules.

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

V/-