

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****TPC No. 57 of 2021**

- Akanksha Shrivastava W/o Abhinav Shrivastava Aged About 29 Years Currently Residing With Her Maternal Grandfather (Nana) Shri Bansilal Shrivastava, (Retd. Principal Govt. Higher Secondary School, Kanker) R/o Mahurbandpara, Kanker District Uttar Bastar Kanker Chhattisgarh.

---- Petitioner**Versus**

- Abhinav Shrivastava S/o Shri P. K. Shrivastava Aged About 36 Years R/o 421, Hanuman Nagar, Titurdih, Durg Chhattisgarh.

---- Respondent

For Petitioner	:	Mr. Purnendra Khicharia, Advocate.
For Respondent	:	Mr. Prasoon Agrawal, 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 Civil Suit No. 147/2021 (Abhinav Shrivastava Vs. Akansha Shrivastava), pending before 3rd Additional Principal Judge, Family Court Durg, District Durg (C.G.) to Family Court, Kanker, District Kanker (C.G.)
2. Brief facts of the case are that the marriage of petitioner and respondent was solemnized on 09.05.2017 with Hindu Ritual and Custom. After some time of marriage, their cordial relations started worsening. After some time, petitioner went her parental house and when she called her husband/respondent to take back, the respondent ignored her call and refused to take her back to the matrimonial house. After that, respondent filed an application seeking divorce under Section 13(1)(i)(a) of Hindu Marriage Act in which the notice has been served to the petitioner. Thereafter, petitioner has also moved an application under Section 13 of the Family Court Act. Now, she has filed the instant transfer

petition before this Court to transfer the Civil Suit No. 147/2021^{3rd} Additional Principal Judge, Family Court Durg, District Durg (C.G.) to Family Court, Kanker, District Kanker (C.G.)

3. Learned counsel for the applicant submits that the applicant/wife is residing at Kanker and she is facing great difficulties in attending the proceeding at Family Court Durg, District Durg(C.G.) as the distance from Kanker to Durg is near about 150 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 3rd Additional Principal Judge, Family Court Durg, District Durg (C.G.) may be transferred to Family Court, Kanker, District Kanker (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 Kanker where the applicant/wife is residing, to the Family Court, Durg is about 150 Kms. Being a lady it would be highly inconvenient for the applicant to travel alone from kanker to Durg 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 the distance between Durg and Kanker, the instant transfer petition deserves to be and is hereby allowed. It is directed that the Civil Suit No. 147/2021

(Abhinav Shrivastava Vs. Akansha Shrivastava), pending before 3rd Additional Principal Judge, Family Court Durg, District Durg (C.G.) is hereby withdrawn from the said Court and same is transferred to the Family Court, Kanker, District Kanker (C.G.) for hearing and disposal in accordance with law. learned 3rd Additional Principal Judge, Family Court Durg, (C.G.) is directed to transmit the record of the above case to the Family Court, Kanker (C.G.). Parties to appear before the Family Court, Kanker on **05.01.2022**.

9. Interlocutory application, if any, stands disposed of.
Certified copy as per rules.

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

V/-