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HIGH COURT OF CHHATTISGARH, BILASPUR**TPC No. 62 of 2019**

- Smt. Durgeshnandani Chandrakar, S/o Anurag Chandrakar, Aged About 43 Years, R/o Barbaspur, Police Station & Tahsil Mahasamund, District Mahasamund, Chhattisgarh.

---- Petitioner**Versus**

- Anurag Chandrakar, S/o Dev Kumar Chandrakar, Aged About 46 Years, R/o Village Sivnikala, Kurud, Police Station Kurud, Tahsil Kurud, District Dhamtari, Chhattisgarh.

---- Respondent

For Petitioner	:	Shri Raghvendra Pradhan, Advocate.
For Respondent	:	Shri Akhand Pratap Pandey, Advocate.

Hon'ble Smt. Justice Rajani Dubey**Order on Board****07/04/2021**

1. The matter is heard through video conferencing.
2. This is a petition under Section 24 of the Code of Civil Procedure, 1908 (in short 'CPC') seeking transfer of Civil Suit No. 45-A/2019 (Anurag Chandrakar Vs. Smt. Durgeshnandani Chandrakar), pending before Family Court, Dhamtari, District-Dhamtari (C.G.) to Family Court, Mahasamund, District-Mahasamund (C.G.).
3. Brief facts of the case are that the marriage of Durgeshnandani Chandrakar petitioner herein was solemnized with respondent Anurag Chandrakar on 24.05.2010 at Mahasamund (C.G.) according to Hindu custom and out of their wedlock, petitioner gave birth to a child on 23.04.2011. At that time, the family members of the petitioner gave the entire household articles along with golden and silver ornaments and cash. The petitioner was residing with the respondent in her matrimonial house. After some time, the respondent and his family members started harassing the petitioner and she was subjected to cruelty. At that

time respondent- husband filed an application under Section 13(1-B) of the Hindu Marriage Act, 1955 for divorce against the petitioner before the Family Court, Dhamtari (C.G.) which is pending before the learned Family Court, Dhamtari (C.G.). Now, petitioner has filed the instant transfer petition before this Court stating *inter alia* that presently she is residing with her old aged parents at Mahasamund (C.G.) and facing great difficulties in attending proceedings before the learned Judge, Family Court, Dhamtari, District- Dhamtari (C.G.) which is near about 100 Kms away from village- Barbaspur. Therefore, the Civil Suit No. 45-A/2019 pending before the Family Court, Dhamtari, District- Dhamtari (C.G.) be transferred to Family Court, Mahasamund, District- Mahasamund (C.G.) for hearing and disposal in accordance with law.

4. Shri Raghvendra Pradhan, learned counsel for the petitioner submits that the applicant/wife is residing at Mahasamund (C.G.) and she is facing great difficulties in attending the proceeding at before Family Court, Dhamtari, District- Dhamtari (C.G.) as the distance between Mahasamund to the Family Court, Dhamtari, District- Dhamtari (C.G.), where matrimonial suit has been instituted by respondent/husband is near about 100 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. He also placed reliance in the cases of **Rajani Kishor Pardeshi Vs. Kishore Babulal Pardeshi reported in (2005) 12 SCC 237**, **Bhartiben Ravibhai Rav Vs. Ravibhai Govindbhai Rav reported in (2017) 6 SCC 785**, **Sonu Vs. Prakash reported in (2000) 9 SCC 127 & Lalita A. Ranga Vs. Ajay Champalal Ranga reported in (2000) 9 SCC 355**, Therefore, application under Section 13(1-B) of Hindu Marriage Act, 1955, pending in the file of Family Court, Dhamtari, District- Dhamtari (C.G.) be transferred to Family Court, Mahasamund, District- Mahasamund (C.G.).
5. On the other hand, learned counsel for the respondent/husband

opposed the petition and placed reliances in the cases of **Smt. Sarika Agrawal Vs. Arpit Kumar Agrawal** passed in TPC No. 70/2017 vide order dated 26.07.2018 and **Dashoda @ Payal Vs. Vinay Saw** passed in TPC No. 12/2017 vide order dated 08.11.2017 by this Court, therefore, it may be inconvenient for the respondent to attend the proceeding at Mahasamund (C.G.).

6. I have heard learned counsel for the parties and considered the rival submission and have perused the memo of petition and other papers.
7. Admittedly, the distance between Mahasamund (C.G.), where the petitioner/wife is residing, to the Family Court, Dhamtari, District- Dhamtari is about 100 Kms. Being a lady it would be highly inconvenient for the petitioner to travel alone from Mahasamund to Dhamtari and vice versa especially at evening after attending the hearing.
8. 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.
9. 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 Family Court, Mahasamund District Mahasmaund (C.G.) to Family Court, Dhamtari, District- Dhamtari (C.G.) is about 100 Kms., the instant transfer petition deserves to be and is hereby allowed. It is directed that Civil Suit No. 45-A/2019 (Anurag Chandrakar Vs. Smt. Durgeshnandani Chandrakar) filed under Section 13(1-B) of Hindu Marriage Act, 1955 for dissolution of marriage before the learned Judge, Family Court, Dhamtari, District Dhamtari (C.G) is hereby withdrawn from the said Court and same is transferred

to the file of Family Court, Mahasamund, District- Mahasamund (C.G.), for hearing and disposal in accordance with law. The Judge, Family Court, Dhamtari, District Dhamtari (C.G.) is directed to transmit the record of the above case to the Family Court, Mahasamund, District- Mahasamund, (C.G.). Parties to appear before the Family Court Mahasamund District- Mahasamund, (C.G.) on **07.05.2021**.

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

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

Ruchi