NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

TPC No. 76 of 2018

- Sandeep Kumar Das, S/o Shri Bhavranjan Das, Aged About 40 Years, R/o House No. 601/5, Gali No. 06, Ashish Nagar, Riasli, Bhilai, District- Durg Chhattisgarh.

---- Petitioner

Versus

- Smt. Deepshikha Das, W/o Shri Sandeep Kumar Das, Aged About 31 Years, R/o Gajrang Camp, Ward No. 04, Kirandul, Tahsil Bade Bacheli, District South Bastar Dantewada Chhattisgarh

---- Respondent

For Petitioner : Smt. Arti Chandra Dut, Advocate.
For Respondent : Shri P.M. Shriwas, Advocate.

Hon'ble Smt. Justice Rajani Dubey

Order on Board

18/03/2021

1. Heard on admission.
2. Admit.
3. This is a petition under Section 24 of the Code of Civil Procedure, 1908 (in short 'CPC') seeking transfer of Civil Suit No. 36-A/2018 (Smt. Deepshikha Das Vs. Sandeep Kumar Das), pending before Additional District Judge (FTC), Dantewada (C.G.) to Family Court, Durg (C.G.) or any nearby District/family Court.
4. Brief facts of the case are that the marriage between the parties was solemnized on 21.04.2005 at Kirandul, District-Dantewada (C.G.) according to Hindu rites and customs. After the marriage, the petitioner and respondent lived at Nasik and Bhilai happily and they blessed with one son named Kunal Das. Some dispute arose between the parties and the respondent lodged a report on 09.05.2018 at Police Station Newai (District Durg). On this

report, an FIR was registered and charge-sheet has been filed against the petitioner u/s 294, 506, 323 of IPC in the Court of Judicial Magistrate First Class, Durg. Thereafter, respondent-wife filed an application under Section 13(1) of the Hindu Marriage Act, 1955 for divorce against the petitioner before the learned Additional District Judge (FTC), Dantewada (C.G.) which is pending before the learned Additional District Judge (FTC), Dantewada. Now, petitioner has filed the instant transfer petition before this Court stating *inter alia* that presently petitioner is residing at Bhilai and facing great difficulties in attending proceedings before the Additional District Judge (FTC), Dantewada (C.G.) which is near about 300 Kms away from Durg. Therefore, the Civil Suit No. 36-A/2018 pending before the Additional District Judge (FTC), Dantewada (C.G.) be transferred to the Family Court, Durg or any nearby District/ family Court for hearing and disposal in accordance with law.

5. Smt. Arti Chandra Dut, learned counsel for the petitioner submits that the petitioner/husband is residing at Bhilai, District- Durg (C.G.) with his mother who is suffering from cancer and for which she requires regular care, medication and attendance by the petitioner. The petitioner is required to accompany his mother. The minor son is also staying with the petitioner and he is school going and, therefore, petitioner is facing great difficulties in attending the proceeding at Additional District Judge (FTC), Dantewada, (C.G.) as the distance between Durg to Dantewada, where matrimonial suit has been instituted by respondent/wife is near about 300 Kms. Therefore, application under Section 13(1) of Hindu Marriage Act, 1955, pending in the Court of Additional District Judge (FTC), Dantewada (C.G.) be transferred to Family Court, Durg (C.G.) or any nearby District/ family Court, in the interest of justice.

6. On the other hand, learned counsel for the respondent/wife opposed the petition.

7. I have heard learned counsel for the parties and considered the

rival submission and have perused the memo of petition and other papers.

8. Admittedly, the distance between Durg, where the petitioner/husband is residing, to the Court of Additional District Judge (FTC), Dantewada (C.G.) is about 300 Kms and petitioner has old aged mother who is suffering from cancer and minor son, both are dependents on petitioner. Therefore, it would be highly inconvenient for the petitioner to travel from Durg to Dantewada and vice versa for attending the hearing. If the case is transferred to Raipur which is between Dantewada and Durg, it would be convenient for both the parties.

9. Thus, keeping in view that distance between Durg to the Court of Additional District Judge (FTC), Dantewada (C.G.) is about 300 Kms, the instant transfer petition deserves to be and is hereby allowed. It is directed that 36-A/2018 **(Smt. Deepshikha Das Vs. Sandeep Kumar Das)** filed under Section 13(1) of Hindu Marriage Act, 1955 for dissolution of marriage before the Court of Additional District Judge (FTC), Dantewada (C.G) is hereby withdrawn from the said Court and same is transferred to the Family Court, Raipur, District- Raipur (C.G.), for hearing and disposal in accordance with law. The Additional District Judge (FTC), Dantewada (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, District Raipur on **19.04.2021.**

10. Interlocutory application, if any, stands disposed of.

Certified copy as per rules.

Sd/-
(Rajani Dubey)
Judge

Ruchi