

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****TPC No. 96 of 2019**

- Smt. Itishri Janbandu W/o Sidharth Janbandu Aged About 29 Years R/o Rajnand Sukhdeve, Near Shankar Nagar Boudhd Bihar Durg, Police Station And Tahsil And District - Durg Chhattisgarh.

---- Petitioner**Versus**

- Sidharth Janbandu S/o Shri Tarachand Janbandu Aged About 34 Years R/o Kedar Badi Ward No. 3 Dogargarh, Police Station And Tahsil - Dongargarh District Rajnangaon Chhattisgarh.

---- Respondent

For Petitioner	:	Mr. Tarun Dansena, Advocate.
For Respondent	:	Mr. Parag Kotecha, Advocate

Hon'ble Smt. Justice Rajani Dubey**Order on Board****22/02/2021**

1. This is a petition under Section 24 of the Code of Civil Procedure, 1908 (in short 'CPC') seeking transfer of Civil Suit Case No. 21A/2019 (Sidharth Janbandu Vs. Smt. Itishri Janbandu), pending before Additional District Judge Dongargarh, District Rajnandgaon (C.G.) to Family Court, Durg, District Durg (C.G.)
2. Brief facts of the case are that the marriage of petitioner and respondent was solemnized before three years of filing the petition with Hindu Ritual and custom. After some time of marriage, the respondent/husband started torturing her on the basis of illicit relationship. Thereafter, petitioner started residing with her parents at Durg and during subsistence of marriage, the petitioner had filed an application under Section 125 of Cr.P.C. before the Family Court, Durg. The respondent/husband has filed an application under Section 13 of Hindu Marriage Act before Additional District Judge Dongargarh, District Rajnandgaon (C.G.). Now, she has filed the instant transfer petition before this Court stating *inter*

alia that presently she is residing at Durg and she is facing great difficulties in attending proceedings before Additional District Judge Dongargarh, District Rajnandgaon (C.G.) which is near about 45 Kms. away from the Durg. Therefore, the Civil Suit Case No. 21A/2019 pending before the learned Additional District Judge Dongargarh, District Rajnandgaon (C.G.) may be transferred to the Family Court Durg, District Durg (C.G.) for hearing and disposal in accordance with law.

3. Learned counsel for the applicant submits that the applicant/wife is residing at Durg and she is facing great difficulties in attending the proceeding at Dongargarh, District Rajnandgaon (C.G.) as the distance from the Family Court, Durg is near about 45 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 before Additional District Judge Dogargarh, District Rajnandgaon (C.G.) may be transferred to the file of Family Court, Durg, District Durg (C.G.).
4. On the other hand, learned counsel for the respondent/husband opposed the petition and placed reliance in the cases of **Anindita Das Vs. Srijit Das** passed in **(2006) 9 SCC 197 & Krishna Veni Nagam Vs. Harish Nagam** passed in **(2017) 4 SCC 150**.
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 Durg where the applicant/wife is residing, to the Additional District Judge Dogargarh, District Rajnandgaon (C.G.) is about 45 Kms. Being a lady it would be highly inconvenient for the applicant to travel alone from Durg to Dongargarh, Rajnandgaon 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 aforestated and keeping in view the law laid down in aforesaid cases, and particularly, keeping in view that distance between Family Court Durg and Additional District Judge Dongargarh, District Rajnandgaon (C.G.) is about 45 Kms., the instant transfer petition deserves to be and is hereby allowed. It is directed that Civil Suit No. 21A/2019 (Sidharth Janbandu Vs. Smt. Itishri Janbandu), pending before Additional District Judge Dongargarh, District Rajnandgaon (C.G.) is hereby withdrawn from the said Court and same is transferred to the file of Family Court Durg, District Durg for hearing and disposal in accordance with law. Additional District Judge Dongargarh, District Rajnandgaon (C.G.) is directed to transmit the record of the above case to the Family Court Durg, District Durg (C.G.). Parties to appear before the Family Court, Durg on **22.03.2021**.
9. Interlocutory application, if any, stands disposed of.
Certified copy as per rules.

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