

IN THE HIGH COURT OF ORISSA AT CUTTACK

TRP(Crl.) No.57, 59 & 126 of 2019

Sachidananda Padhi & Ors. Petitioners

-versus-

Lipsa Padhi & Anr. Opposite Parties

**CORAM:
JUSTICE BIRAJA PRASANNA SATAPATHY**

**ORDER
02.12.2022**

Order No

14. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.

2. Since Parties are same in all the proceedings and the Petitioners in all three (3) cases have prayed for transfer of the proceeding initiated by the Opp. Party-wife, all the matters were heard analogously and disposed of by the present common order.

3. TRP(Crl.) No. 57 of 2019 has been filed by the Petitioners seeking transfer of C.T. Case No. 298 of 2017 arising out of Madanpur Rampur P.S. Case No. 179 of 2017 pending before the learned J.M.F.C., Madanpur Rampur, Kalahandi to the Court of learned J.M.F.C., Tarava, Subarnapur, TRP(Crl.) No. 59 of 2019 has been filed by the Petitioner-husband seeking transfer of CMC Case No. 14 of 2017 pending before the learned J.M.F.C., Madanpur Rampur to the Court of learned J.M.F.C., Tarava.

Similarly TRP(Crl.) No. 126 of 2019 has been filed by the Petitioner-husband seeking transfer of CMC Case No. 51 of 2019 pending before the self same learned J.M.F.C., Madanpur Rampur to the Court of learned J.M.F.C., Tarava.

4. All the proceedings which the Petitioners seek transfer in the above noted transfer petitions were initiated at the instance of the Opp. Party-wife. It is contended by Mr. J.R. Dash, learned counsel appearing for the Petitioners that the Petitioners on receipt of summon in CMC No. 14 of 2017 initiated by the Opp. Party-wife under Sec. 12 of the Protection of Women from Domestic Violence Act, 2005, when attended the Court of learned J.M.F.C., Madanpur Rampur, the brother of the Opp. Party-wife misbehaved with the Petitioners and threatened to kill them. The Petitioners challenging such action of the elder brother of the Opp. Party, lodged a F.I.R., which was registered as Tarava P.S. Case No. 60 of 2019 under Sec. 506 of the Indian Penal Code. It is contended that since the Opp. Party-wife and her family members are the permanent residents of Madanpur Rampur, which comes under the jurisdiction of learned J.M.F.C., Madanpur Rampur, the Petitioners apprehending threat to their lives, here filed the above said three Petitions seeking transfer of the cases in question. It is also contended that Court of learned J.M.F.C., Tarava would be at a

distance of 80 k.ms. to be covered by the Opp. Party-wife and 25 k.ms. from the native of the Petitioners. It is also contended that Court of learned J.M.F.C., Bolangir would be at a distance of 65 k.ms. for the wife and 45 k.ms. for the Petitioners. Accordingly, all the matters because of the grounds taken in the transfer petitions, be transferred either to the Court of learned J.M.F.C., Tarava or to the Court of learned J.M.F.C., Bolangir. It is also contended that taking into account the apprehension raised by the Petitioners, this Court while issuing notice of the matter in TRP(Crl.) No. 57 of 2019, stayed the further proceeding of C.T. Case No. 298 of 2017 pending in the file of learned J.M.F.C., Madanpur Rampur. In view of the allegations made by the Petitioners with regard to threat to their life and property, the proceedings initiated by the Opp. Party-wife, which are the subject matter in the three (3) transfer petitions be transferred to the Court of either learned J.M.F.C., Tarava or to the Court of learned J.M.F.C., Bolangir.

5. Mr. S.S. Kashyap, learned counsel appearing for the Opp. Party-wife in all the three (3) cases on the other hand contended that during pendency of the matter the Petitioner-husband Sachidananda Padhi has already initiated a proceeding under Sec. 13 of the Hindu Marriage Act before the learned Family Judge, Sonepur. Accordingly, it is contended that if all the three (3) proceedings will

be transferred to the competent Court at Sonapur, the Opp. Party-wife will have no objection and she can participate in all the four (4) proceedings at Sonapur.

6. This Court taking into account the submission made by learned counsel appearing for the Opp. Party-wife when took a view to transfer all the three (3) proceedings to the competent Court at Sonapur, Mr. Dash, learned counsel for the Petitioners did not agree to the same. On the alternate he submitted that all the three (3) proceedings including the proceeding initiated by the Petitioner-husband for divorce be transferred to the competent Court at Bolangir.

7. This Court taking into account the submission of Mr. Dash, learned counsel for the Petitioners when proposed that the Petitioner-husband for such transfer of the matter to the competent Court at Bolangir will have to pay the travelling expenses of the Opp. Party-wife for her attending the Court at Bolangir with payment of monthly maintenance of Rs.4,000/- in place of Rs.2,000/- which is being paid by the husband at present, learned counsel appearing for the Petitioners did not agree to such view of this Court also. Mr. Dash on the other hand submitted that all the matters be transferred to Bolangir and be targeted, so that the

matters can be disposed of within a stipulated time. It is also submitted that the grant of maintenance @ Rs.2,000/- to the Opp. Party-wife is under challenge before this Court.

8. Having heard learned counsel for the Parties and taking into account the submissions made and the stand taken by the learned counsel appearing for the Petitioners, this Court does not find any justifiable ground raised by the Petitioners for transfer of the matters to the Court of learned J.M.F.C. Tarava or alternatively to the Court of learned J.M.F.C., Bolangir. Since all the proceedings have been initiated by the Opp. Party-wife, she cannot be compelled to attend the Court either at Tarava or at Bolangir in absence of the travelling expenses to be borne by the Petitioner-husband. This Court also finds that the Opp. Party-wife is only getting a monthly maintenance of Rs. 2,000/- (Rupees Two Thousand) and with that poultry amount she will not be in a position to attend the Court at Bolangir to prosecute the 3(three) proceedings initiated by her.

9. Since learned counsel appearing for the Petitioners neither agreed to pay monthly maintenance of Rs.4,000/- (Rupees Four thousand) nor agreed to pay the travelling expenses to enable the Opp. Party to attend the Court at Bolangir, this Court is not inclined to

entertain the prayer for transfer as made in all the 3 (three) transfer petitions. Accordingly, all the 3 (Three) transfer petitions stands dismissed.

(Biraja Prasanna Satapathy)
Judge

Sneha

