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**IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR
BEFORE**

**HON'BLE SHRI JUSTICE ROOPESH CHANDRA VARSHNEY
ON THE 29th OF JANUARY, 2024**

MISC. CIVIL CASE No. 1064 of 2022

BETWEEN:-

**SMT. NIDHI GURJAR W/O SUMIT KANSANA @
PRATEEM D/O RAJARAM SINGH, AGED 24 YEARS, R/O
GRAM SEWANI TEHSIL INDARGRAH DISTRICT DATIA
(MADHYA PRADESH)**

.....APPLICANT

(BY SHRI AJAY KUMAR DWIVEDI - ADVOCATE)

AND

**SUMIT KANSANA @ PRATEEM S/O RAJENDRA, AGED 27
YEARS, R/O NEW VIVEK NAGAR MELA GROUND,
DULLPUR DISTRICT GWALIOR (MADHYA PRADESH)**

.....RESPONDENT

(BY SHRI SYED MOMIN ALI - ADVOCATE)

.....
*This application coming on for admission this day, the court passed the
following:*

ORDER

B y this MCC, the applicant/wife has approached this Court under Section 24 of the CPC seeking transfer of case No.596A/2022 pending before the Principal Judge, Family Court, Gwalior filed by respondent/husband under Section 9 of Hindu Marriage Act for restitution of conjugal rights to Family Court, Datia.

It is the submission of learned counsel for the applicant/wife that marriage between applicant and respondent was solemnized on 11.03.2020. Soon after the marriage, respondent started harassing her mentally as well as physically for

demand of dowry and thereafter ousted her from the house, therefore, applicant/wife is living in her parental home. Now the respondent/husband moved an application under Section 9 of Hindu Marriage Act for restitution of conjugal rights. Applicant is a housewife and has no source of income and therefore, it is not possible for her to attend the Court at Gwalior. Further according to applicant, respondent/husband belongs to a politically influenced family and therefore, she has fear of her life while attending Court dates at Gwalior. Under such circumstances, it is prayed that aforesaid pending before Principal Judge, Family Court, Gwalior may be transferred to Family Court, Datia.

On the other hand, counsel for the respondent vehemently opposed the prayed.

Heard.

In the case of **Sumita Singh Vs. Kumar Sanjay and Another, (2001) 5 Supreme 667**, Hon'ble Apex Court has held that in a matrimonial proceedings, if proceedings are initiated by husband, then wife's convenience must be looked at, therefore, in the facts and circumstances of the case, it is considered apposite to direct for transfer of the case No.596A/2022 pending before Principal Judge, Family Court, Gwalior filed by respondent/husband under Section 9 of Hindu Marriage Act for restitution of conjugal rights to a Court of competent jurisdiction at Datia.

With the aforesaid direction, petition stands ***disposed of and allowed.***

(ROOPESH CHANDRA VARSHNEY)
JUDGE

Adnan

