HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

S.B. Civil Transfer Appl. No. 117/2022

Rachna Khushi W/o Narendra Kumar, Aged About 37 Years, D/o Shri Satya Narain Ji, B/c Braham Bhatt, R/o B/394, Hanuman Marg, Azad Nagar, Bhilwara, Presently R/o Shivalika Boys Hostel, Mahaveer Nagar, No. 1, Kota, At Present R/o Subhash Nagar Circle, Bundi Road, Village Lakheri, Tehsil Indragarh, Distt. Bundi (Raj.)

----Petitioner

Versus

Narendra Kumar S/o Late Shri Ram Lal, B/c Bhatt, R/o B/394, Hanuman Marg, Azad Nagar, Bhilwara, Distt. Bhilwara.

----Respondent

For Petitioner(s)	:	Mr. Dinesh Bishnoi for Mr. JVS Deora
For Respondent(s)	:	None present

HON'BLE MR. JUSTICE YOGENDRA KUMAR PUROHIT

Order

06/02/2024

1. The instant civil transfer application has been filed by the petitioner-wife seeking transfer of Civil Original Case No. 405/2019 “Narendra Kumar Vs. Smt. Rachna (Khushi)” preferred by the respondent-husband u/s 13 of the Hindu Marriage Act, pending in the Family Court, Bhilwara to the Family Court, Bundi.

2. None present for the respondent despite service of notice in December, 2023.

3. Heard learned counsel for the petitioner and perused the material available on record.

4. Learned counsel for the petitioner-wife submitted that the marriage between the petitioner-wife and respondent-husband

was solemnized as per the Hindu rites at Village Lakheri, District Bundi on 02.01.2014 and out of the wedlock, one male child was born, who is living with the present petitioner. Since the petitioner-wife was treated cruely, harassed and maltreated in connection with demand of dowry and was turned out of her matrimonial home, therefore, she lodged an FIR No. 253/2018 against her husband and police after investigation filed charge sheet against him for the offence under Sections 498A, 406 IPC and the matter is pending consideration before Judicial Magistrate, Lakheri, District Bundi. She also preferred an application under Section 125 Cr.P.C. seeking maintenance before Family Court, Bundi, in which, notice has been served upon her husband and is also pending consideration before Judicial Magistrate, Lakheri, District Bundi. It is submitted that with a view to harass and humiliate the petitioner, the respondent-husband has moved application under Section 13 of the Hindu Marriage Act before Family Court, Bhilwara seeking decree for dissolution of marriage.

5. Learned counsel for the petitioner further submitted that the petitioner is a young lady having poor financial condition and is residing along with her child at Village Lakheri, Tehsil Indragarh, District Bundi, therefore, it is very difficult for the petitioner to travel from Bundi to Bhilwara along with her child and defend the case instituted by the respondent husband.

6. In the aforesaid facts and circumstances, learned counsel for the petitioner submitted that since the aforesaid cases instituted by the petitioner-wife are pending at Bundi, in the interest of

justice, the case filed by the respondent-husband pending before Family Court, Bhilwara deserves to be transferred to the Family Court, Bundi.

7. It is settled law that while considering transfer of case in matrimonial proceedings instituted by the husband, the convenience of the wife is to be looked into. In this regard, recently, Hon'ble the Supreme Court in the matter of **N.C.V. Aishwarya Vs. A.S.Saravana Karthik Sha**, **(Civil Appeal No.4894/2022 arising out of SLP (C) No.16465/2021)** decided on 18.7.2022, while considering transfer of matrimonial case under Section 24 CPC, has observed as under:-

> "The cardinal principle for exercise of power under Section 24 of the Code of Civil Procedure is that the ends of justice should demand the transfer of the suit, appeal or other proceeding. In matrimonial matters, wherever Courts are called upon to consider the plea of transfer, the Courts have to take into consideration the economic soundness of both the parties, the social strata of the spouses and their behavioural pattern, their standard of life prior to the marriage and subsequent thereto and the circumstances of both the parties in eking out their livelihood and under whose protective umbrella they are seeking their sustenance to life. Given the prevailing socio-economic paradigm in the Indian society, generally, it is the wife's convenience which must be looked at while considering transfer."

8. Having considered the submissions made on behalf of the petitioner, looking to the facts and circumstances of the case noticed above and the settled position of law by the Hon'ble Supreme Court in the matter of N.C.V. Aishwarya (supra), the transfer application is allowed. It is ordered that the Civil Original Case No. 405/2019 pending in the Family Court, Bhilwara titled as 'Narendra Kumar Vs. Smt. Rachna (Khushi)' be transferred to the

Family Court, Bundi. The Family Court, Bhilwara is directed to send the record of the aforesaid case to Family Court, Bundi immediately. The parties are directed to appear before the Family Court, Bundi on 15.3.2024. A copy of this order be sent to the Family Court, Bhilwara and Family Court, Bundi forthwith. Stay application also stands disposed of.

(YOGENDRA KUMAR PUROHIT),J

140-RP/-