lIN THE HIGH COURT OF ORISSA, CUTTACK

TRPCRL No.108 of 2024

(CNR No.ODHC010851712024)

Ankita Kumari Tripathy @ Patra ..... Petitioner

-Versus-

Krushna Prasad Patra ..... Opposite Party

Advocate for the parties

For Petitioner : ***Mr. S.K. Mishra, Sr. Advocate***
Along with
Ms. P.S. Mohanty, Advocate

For Opposite Party : ***Mr. B.P. Tripathy, Sr. Advocate***
Along with
Mr. Subhankar Das, Advocate

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CORAM: JUSTICE SANJAY KUMAR MISHRA

Date of Hearing & Judgment: 28.10.2026

S.K. MISHRA, J.

1. The present transfer petition has been preferred by the Petitioner-wife under Section 447 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), seeking transfer of Cr.P. No.64 of 2021, instituted by her under Section 125 of the Code of Criminal

Procedure, 1973, for maintenance, from the Court of the learned Judge, Family Court, Berhampur, to the Court of the learned Judge, Family Court, Bhubaneswar, on the grounds stated therein.

2. Being noticed, the Opposite Party-husband entered appearance and filed an objection opposing the prayer for transfer.

3. Heard Mr. Mishra, learned Sr. Advocate appearing for the Petitioner so also Mr. Tripathy, learned Sr. Advocate appearing for the Opposite Party.

4. Reiterating the grounds urged in the transfer petition, Mr. Mishra, learned Senior Advocate for the Petitioner-wife submits that, at the time of institution of the matrimonial proceeding, i.e., Cr.P No.64 of 2021, the Petitioner was residing at Berhampur with her aged and ailing parents and was employed at Bengaluru. Subsequently, she left her employment at Bengaluru and joined a new job at Bhubaneswar, where her aged and ailing parents had also shifted to avail better medical treatment. He further submits, the minor daughter of the Petitioner, who is aged about four

years, has been admitted to Sai International School at Bhubaneswar.

5. Learned Senior Advocate further submits that the Petitioner, being a deserted lady, would face considerable hardship if she was required to travel to Berhampur on each date of hearing to attend the matrimonial proceeding. He also submits that, as the Opposite Party-husband is presently residing at Bengaluru, no undue prejudice would be caused to him if the proceeding is transferred from Berhampur to Bhubaneswar, which has convenient air connectivity.

6. Learned Senior Advocate for the Petitioner-wife further submits that, in view of the settled position of law, the convenience of the wife is a paramount consideration while deciding a prayer for transfer of matrimonial proceeding. Accordingly, he prays that Cr.P. No.64 of 2021 be transferred from the Court of the learned Judge, Family Court, Berhampur, to the Court of the learned Judge, Family Court, Bhubaneswar.

7. Per contra, Mr. Tripathy, learned Senior Advocate appearing for the Opposite Party-husband, submits that Cr.P.

No.64 of 2021 was instituted in the year 2021, whereas the Petitioner approached this Court seeking transfer of the proceeding only in the year 2024, after a lapse of approximately three years. He further submits, although the Petitioner claims to have secured employment at Bhubaneswar, no documentary evidence in support of such employment has been annexed to the transfer petition. Similarly, no cogent material has been placed on record to substantiate the Petitioner's claim that her minor daughter is pursuing her education at Bhubaneswar.

7.1. Referring to the order sheet of the Court below dated 03.12.2024, as at Anenxure-2 series, it is further submitted that the Petitioner-wife had already expressed her intention not to adduce any further evidence and the evidence on her behalf was closed. It is therefore contended that the present transfer petition has been filed only with a view to delaying the proceeding. In support of his submission, the learned Sr. Advocate for the Opposite Party has relied upon the copies of the deposition in Cr.P. No.64 of 2021 annexed as Anenxure-2 series.

7.2. Relying upon the principles governing the exercise of transfer jurisdiction, learned Senior Advocate for the Opposite Party-husband further submits that, although the convenience of the wife is a paramount consideration in matrimonial matters, it cannot be treated as the sole determining factor in every case.

8. Law is well settled that while considering application for transfer of matrimonial proceedings, convenience of wife must be looked at. In ***N.C.V. Aishwarya Vs. A.S. Saravana Karthik Sha),*** reported in 2022 SCC OnLine SC 1199, the Supreme Court held as follow:

> *"9. 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 behavioral 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."***
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> ***(Emphasis supplied)***

9. Having considered the submissions made by learned Senior Counsel for the parties, the grounds urged in the transfer petition and the settled position of law, this Court is of the view that the circumstances pleaded by the Petitioner-wife justify the transfer of proceeding in Cr.P. No.64 of 2021 to Bhubaneswar. The Petitioner is employed at Bhubaneswar, resides with her aged and ailing parents, and has to look after her minor daughter's educational needs. These circumstances, taken together, justify the transfer of the proceeding. Further, as the Opposite Party-husband is presently residing at Bengaluru, the transfer of proceeding to Bhubaneswar would not cause him any undue prejudice. The delay in filing the transfer petition and the absence of documentary evidence, as pointed out by the Opposite Party-husband, do not override the grounds justifying transfer in the facts and circumstances of the present case. Accordingly, the prayer for transfer deserves to be allowed.

10. Accordingly, the learned Judge, Family Court, Berhampur is directed to transmit the case record i.e. Cr.P. No.64 of 2021 to the Court of learned Judge, Family Court-I,

Bhubaneswar at the earliest, preferably, within a period of seven days from the date of production of certified copy of this Judgment.

11. On receiving the case record in Cr.P. No.64 of 2021 from the Court of learned Judge, Family Court, Berhampur, the Court of learned Judge, Family Court-I, Bhubaneswar shall re-register the said case, if so required, and proceed further in accordance with law giving due opportunity to both the parties and shall try to conclude the said proceeding at the earliest.

12. It is made further clear that, to expedite the trial, both the parties will be at liberty to appear before the Court of learned Judge, Family Court-I, Bhubaneswar through virtual mode, with due permission of the concerned Court, in case they face any difficulty on any date to appear physically before the said Court.

13. The learned Judge, Family Court-I, Bhubaneswar is requested to explore the facility of video conferencing available in the said Court and allow the parties to appear through video conferencing mode, following the guidelines prescribed

under the "High Court of Orissa and District Courts Use of Electronic Communication and Audio-Video Electronic Means Rules, 2025".

14. However, on the dates of effective hearing, i.e., for examination and cross-examination of witnesses and other purposes, for which their presence may be required by the Court and if it is so ordered, the parties so also their witnesses, if any, shall remain physically present before the learned Judge, Family Court-I, Bhubaneswar.

15. To avoid delay and notice, both the parties are directed to make a query themselves or through their Counsel from the Court of learned Judge, Family Court-I, Bhubaneswar to ascertain the date and purpose of posting of Cr.P. No.64 of 2021 and participate in the said proceeding.

16. Having regard to the fact that the matrimonial proceeding is of the year 2021, both the parties are further directed not to seek for unnecessary adjournments and cooperate with the learned Judge, Family Court-I, Bhubaneswar, who shall do well to conclude the said

proceeding at the earliest, preferably, by the end of June, 2027, provided there is no legal impediment.

17. With the said observation and direction, the transfer petition stands allowed and disposed of.

18. Office is directed to communicate a copy of this Judgment to the Court of learned Judge Family Court-I, Bhubaneswar enabling the said Court to act in terms of the observations made above.

19. Interim order dated 16.12.2024 passed in I.A. No.92 of 2024 stands vacated. All pending interlocutory applications, if any, also stand disposed of.

Urgent certified copy of this Judgment be granted on proper application as per rules.

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S.K. MISHRA, J.

Orissa High Court, Cuttack.
Dated, the 28th October, 2026/ Prasant

Signature Not Verified
Digitally Signed
Signed by: PRASANT KUMAR PRADHAN
Designation: Secretary
Reason: Authentication
Location: High Court of Orissa, Cuttack
Date: 31-Oct-2026 13:09:28