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MCC-2598-2025

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE DEEPAK KHOT

ON THE 14th OF JANUARY, 2026

MISC. CIVIL CASE No. 2598 of 2025

SMT. RANJANA CHOUKSEY ALIAS SHRIM CHOUKSEY

Versus

VAIBHAV RAI

.....
Appearance:

Shri Sarvesh Kumar Jaiswal - Advocate for the petitioner.

Shri Prashant Kumar Tiwari, learned counsel for the respondent [R-1].
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ORDER

The applicant/wife has filed the present petition under Section 24 of C.P.C. making a prayer for transfer of RCSHM No.39/2025 which is pending before 3rd Additional District and Sessions Judge, Gardarwara, District Narsinghpur to the Court of Principal Judge, Family Court Narmadapuram, District Narmadapuram.

2. It is the case of the applicant that the applicant is a resident of Narmadapuram and the respondent being husband has filed an application under Section 13 of the Hindu Marriage Act for divorce in the Family Court, Gardarwara, District Narsinghpur. The application for transfer of the case has been filed on the ground that applicant's marriage with the respondent was solemnized on 19.04.2024 at Gardarwara, District Narsinghpur and out of this wedlock, one child was born on 19.02.2025. Subsequently, matrimonial dispute has arisen between the parties, which has led to filing of an application under Section 13 of the Hindu Marriage Act by the respondent husband in the Court of Principal Judge, Family Court, Gardarwara, District Narsinghpur.

3 . Learned counsel for the applicant-wife has submitted that the applicant is



residing at her parental home at Narmadapuram and is a home maker and is fully dependent on her family members. She is not having sufficient means to travel to Gardarwara on every date of matrimonial proceedings and the distance between Narmadapuram and Gardarwara is 150 Kms. It is submitted that the applicant has to travel alone with her infant child which causes great hardship to her. It is further submitted that the applicant being a lady is also entitled to contest her case at a place where the same is convenient to her. Thus, it is submitted that the case filed by the respondent husband in the Court of Principal Judge, Family Court, Gardarwara be transferred to the Family Court, Narmadapuram.

4. The respondent counsel has denied the allegations and stated that there is no other case which is pending at Narmadapuram coupled with the fact that the application for divorce has been filed on the basis of cruelty which can be proved at the place which is the matrimonial home of the parties. Therefore, only the convenience of the applicant would not be a relevant factor to transfer the matter from Gardarwara, District Narsinghpur to Narmadapuram. The other factors like presence of other witnesses, the incidences which took place at Narmadapuram which constitutes cruelty are required to be proved at the place. It is further submitted that the respondent is ready to make the payment of commutation of the applicant on the date fixed by the Court below.

5. Heard learned counsel for the parties and perused the record.

6. It is evident from the record that the respondent has filed an application for divorce before the Family Court, Narmadapuram which is pending adjudication. In the reply, the respondent has filed an order-sheet to demonstrate that the matter is at the advance stage of the evidence of the applicant. The applicant has not been marking her presence under the garb of the pendency of this application. It is



submitted that the presence of the applicant is only required for oral evidence before the Court below. It is further submitted by the respondent that if the Court fix the date for the evidence of the applicant, the applicant shall be cross-examined on the same date and no further adjournment shall be sought.

7. The Hon'ble Apex Court in the case of **Anindita Das vs. Srijit Das (2006) 9 SCC 197** has held in paragraphs 3 to 7 as under :-

"3. Even otherwise, it must be seen that at one stage this Court was showing leniency to ladies. But since then it has been found that a large number of transfer petitions are filed by women taking advantage of the leniency shown by this Court. On an average at least 10 to 15 transfer petitions are on board of each court on each admission day. It is, therefore, clear that leniency of this Court is being misused by the women.

4. This Court is now required to consider each petition on its merit. In this case the ground taken by the wife is that she has a small child and that there is nobody to keep her child. The child, in this case, is six years old and there are grandparents available to look after the child. The respondent is willing to pay all expenses for travel and stay of the petitioner and her companion for every visit when the petitioner is required to attend the court at Delhi. Thus, the ground that the petitioner has no source of income is adequately met.

5. Except for stating that her health is not good, no particulars are given. On the ground that she is not able to come to Delhi to attend the court on a particular date, she can always apply for exemption and her application will undoubtedly be considered on its merit. Hence, no ground for transfer has been made out.

6. Accordingly, we dismiss the transfer petition. We,



however, direct that the respondent shall pay all travel and stay expenses of the petitioner and her companion for each and every occasion when she is required to attend the court at Delhi.

7. The respondent shall send in advance to the petitioner, money for a 2nd class AC train ticket for herself and a companion. The respondent shall also pay stay expenses of the petitioner and her companion in a 3-star hotel. The trial court shall ensure that the petitioner has been paid the travel expenses in advance and that the hotel expenses are paid to her on each and every occasion when she is required to attend the court at Delhi."

8. Further, the Hon'ble Apex Court in the case of Preeti Sharma vs. Manjit Sharma (2005) 11 SCC 535 has held in para-2 as under :-

"2. Merely because the petitioner is a lady does not mean she cannot travel to Muzaffar Nagar. At the highest she can be paid expenses for travel and stay. We, therefore, direct that the respondent shall pay to the petitioner and a companion travel and stay expenses on every occasion that the petitioner is required to go to Muzaffar Nagar. The Court at Muzaffar Nagar shall ensure that such payment is made to the petitioner on every occasion. With these directions, the transfer petitions are dismissed."

9. From the above enunciation of law, it is clear that now only the convenience is not the reasonable factor which can determine the case of transfer. If the matter is to be proved by the witnesses of the place where the matter is being prosecuted then the other side can suitably be adjusted by making payment of commutation. The respondent has undertaken that he is ready to pay the expenses of travel and commutation to the applicant as and when the applicant is required in the Court at Narmadapuram as directed by the Court.

10. Considering the totality of the facts and circumstances of the case, the application is disposed of with a direction that the applicant may appear before the



Family Court, Gardarwara, District Narsinghpur through video conferencing. The applicant shall attend the Court at Gardarwara for her examination on the date fixed by the Court below for which the expenses would be borne by the respondent. The Family Court, Gardarwara, District Narsinghpur is directed to fix the date for examination of the applicant and accordingly, direct the respondent to make payment of the expenses. For further dates and adjudication, the applicant is at liberty to appear before the Court through video conferencing and counsel who is appearing at Gardarwara, District Narsinghpur.

11. With the aforesaid, the **M.C.C. is allowed and disposed of.**

(DEEPAK KHOT)
JUDGE

Priya.P