

**IN THE SUPREME COURT OF INDIA**  
**CIVIL/CRIMINAL ORIGINAL JURISDICTION**  
**TRANSFER PETITION(S)(CIVIL) NO.1427/2020**

**SANTOSH @ SUMISHA GAUR**

**Petitioner(s)**

**VERSUS**

**ATUL GAUR**

**Respondent(s)**

**WITH**

**TRANSFER PETITION(S)(CRIMINAL) NO.351/2021**

**ORDER**

Transfer Petition No. 1427 of 2020 has been filed by the wife seeking transfer of HMA No. 136 of 2020, under Section 13 of Hindu Marriage Act, 1955, titled as "*Atul Gaur vs. Santosh @ Sumisha Gaur*", pending before the Court of the Principal Judge, Family Court, Shivpuri, Madhya Pradesh to the Family Court, Pune, Maharashtra.

Transfer Petition No. 351 of 2021 has been filed by the husband seeking transfer of petition E. No. 129 of 2021 filed under Section 125 of the Code of Criminal Procedure 1973, titled as "*Santosh @ Sumisha Atul Gaur & Anr. vs. Atul Swaroop Gaur*", pending before the Family Court, No. 4, Pune, Maharashtra to the Family Court, Shivpuri, Madhya Pradesh.

Heard learned counsel for the parties at length.

On perusal of the record, it is evident that the husband initiated the proceedings against wife in a criminal court at District Shivpuri, Madhya Pradesh, which has been contested by the

wife, appearing therein for quite sometime. In the said case, wife and her brother, who is said to be handicapped, are parties to the proceedings. The husband, thereafter filed a suit seeking decree of divorce, transfer of which is sought by the wife. As a counter-blast, wife initiated the proceedings under Section 125 Cr.P.C. seeking maintenance before the Family Court at Pune, Maharashtra. However, they are litigating with each other in the courts, making jurisdiction at the places of their respective residence. Husband sought transfer of maintenance case to Shivpuri, Madhya Pradesh because the wife is contesting other cases, while the wife asked for transfer of the divorce case to Pune, where she is presently residing.

In the facts and circumstances of the case, looking to the peculiar situation wherein the wife filed the proceedings under Section 125 Cr.P.C., subsequent to the proceedings of the husband in the Family Court as well as criminal court at Shivpuri, Madhya Pradesh, now the transfer of the proceedings sought by the wife, after contesting the criminal cases for a quite long time, does not appear to be bona fide, just and reasonable.

Simultaneously, the proceedings started by the wife to which transfer is sought by the husband is also not justifiable.

In such a situation, I am of the opinion that the discretion should not be exercised on either side. I find no merit to transfer Petition E.No. 129 of the 2021, titled as *Santosh @ Sumisha Atul Gaur and another vs. Atul Swaroop Gaur*, from the Family Court, Pune to Family Court, Shivpuri, Madhya Pradesh and H.M.A. No. 136 of 2020, titled as *"Atul Gaur vs. Santosh @ Sumisha Gaur"*, from the

Court of the Principal Judge, Family Court, Shivpuri, Madhya Pradesh to the Family Court, Pune, Maharashtra.

Accordingly, both the Transfer Petitions are dismissed. Pending application(s), if any, shall stand disposed of.

.....J  
(J.K. MAHESHWARI)

New Delhi  
Date: 29.10.2021.

ITEM NO.59                      Court 8 (Video Conferencing)                      SECTION XVI-A

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Transfer Petition(s)(Civil) No.1427/2020

SANTOSH @ SUMISHA GAUR

Petitioner(s)

VERSUS

ATUL GAUR

Respondent(s)

(IA No. 128513/2020 - EX-PARTE STAY  
IA No. 86710/2021 - EXEMPTION FROM FILING O.T.)

WITH

T.P.(Cr1.) No. 351/2021 (XVI-A)  
(FOR ADMISSION and I.R. and IA No.105393/2021-EX-PARTE STAY)

Date : 29-10-2021 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE J.K. MAHESHWARI

For Petitioner(s)      Mr. Praveen Swarup, AOR  
   Mr. Nitish Banka, Adv.

Ms. Akanksha Mehra, AOR

For Respondent(s)      Mr. Nipun Saxena, Adv.  
   Ms. Akanksha Mehra, AOR

UPON hearing the counsel the Court made the following  
O R D E R

The Transfer Petition(s) are dismissed in terms of the Signed  
Order.

Pending application(s), if any, shall stand disposed of.

(SHRADDHA MISHRA)  
SENIOR PERSONAL ASSISTANT

(RAM SUBHAG SINGH)  
BRANCH OFFICER

(Signed Order is placed on the file)