

IN THE SUPREME COURT OF INDIA
CIVIL/CRIMINAL ORIGINAL JURISDICTION

Transfer Petition (Civil) No. 2040/2018

PALLAVI KUMARI Petitioner(s)

VERSUS

SUNIL KUMAR Respondent(s)

WITH

Transfer Petition (Crl.) No. 152/2020

O R D E R

These two transfer petitions relating to the same parties have been considered together and are taken up for disposal by this common order.

In Transfer Petition (C) No. 2040/2018, the petitioner-wife seeks transfer of the petition for dissolution of marriage filed by the respondent-husband, being H.M.A No. 1743/2018, from the Court of the Principal Judge, Family Court, Dwarka, New Delhi to the Court of the Principal Judge, Family Court, Jehanabad, Bihar.

Learned counsel for the petitioner would submit that the petitioner is residing at Jehanabad, Bihar and the distance of the said place to New Delhi is 1400 kms; that she has no source of income; and that she has no one to accompany so as to ensure her attendance before the Court at New Delhi.

In Transfer Petition (Crl) No. 152/2020, the petitioner-wife seeks transfer of Domestic Violence Case

No. 46609/2018 from the Court of the Chief Metropolitan Magistrate, District Court, Dwarka, New Delhi to the competent court at Jehanabad, Bihar.

During the course of submissions, it has transpired that the petitioner-wife has also filed another petition seeking the provision for maintenance with reference to Section 125 of the Code of Criminal Procedure, 1973 ('CrPC') and that remains pending in the Court of the Principal Judge, Family Court, Dwarka, New Delhi.

As regards the said application seeking maintenance, it is submitted by learned counsel appearing for the petitioner that during the pendency of H.M.A. No. 1743/2018, the petitioner-wife returned to the matrimonial home in an attempt to revive the relations but, had to leave again due to the adversities created by the respondent and in the compelling circumstances, she filed the said petition under Section 125 CrPC, which was dismissed in default. In this regard, learned counsel appearing for the respondent-husband points out that an application for restoration is pending.

We have taken note of the totality of the facts and circumstances of the case.

Ordinarily, for such a plea of transfer, we look into the inconvenience likely to be suffered by the petitioner-wife and the prohibitive factors for which she may not be in a position to contest a particular case effectively but, in the present case, we find that the petitioner herself

has filed at least two other cases at New Delhi. The circumstances or reasons for filing such cases may not be relevant for the present purpose. The relevant aspect is that those cases, at present, are pending at New Delhi; one pertaining to the allegations of domestic violence and another for maintenance (of which, restoration has been prayed for).

In the given circumstances, and looking to the fact that the petition seeking dissolution of marriage was filed by the respondent-husband way back in the year 2018, in our view, providing for transfer of the matters from New Delhi to Jehanabad at the instance of the petitioner-wife may not serve the cause of justice. However, we deem it appropriate to provide for other processes/relaxations so as to facilitate the effective attendance of the petitioner and her contesting the matters.

Accordingly, while the prayer for transfer made in these petitions is declined, but it is provided that if the petitioner makes a prayer for attendance of the proceedings in virtual mode and even filing of the necessary pleadings/documents online, the Court concerned may give due consideration to such a prayer. Moreover, if the petitioner is required to attend the proceedings after undertaking journey from her present place of stay, the Court concerned shall make adequate arrangements for her expenses which shall, obviously, be borne by the respondent-husband.

Subject to the observations foregoing, these petitions stand disposed of.

All pending applications also stand disposed of.

.....J.
[DINESH MAHESHWARI]

.....J.
[BELA M. TRIVEDI]

New Delhi;
November 29, 2022.

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Transfer Petition(s)(Civil) No(s). 2040/2018

PALLAVI KUMARI

Petitioner(s)

VERSUS

SUNIL KUMAR

Respondent(s)

(IA No. 173222/2018 - STAY APPLICATION)

WITH

T.P.(Crl.) No. 152/2020 (XVI-A)

(FOR ADMISSION and IA No.40372/2020-EX-PARTE STAY)

Date : 29-11-2022 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DINESH MAHESHWARI

HON'BLE MS. JUSTICE BELA M. TRIVEDI

For Petitioner(s)

Ms. Bharti Tyagi, AOR
Mr. Vikas Kumar, Adv.
Mr. Ashwini Kr. Upadhyay, Adv.
Mr. Arun Kumar Agarwal, Adv.Ms. Aparna Jha, AOR
Mr. Abhishek Yadav, Adv.
Ms. Ipsita Behura, Adv.
Ms. Pooja Singh, Adv.
Ms. Geeta Verma, Adv.

For Respondent(s)

Mr. Ravi Kumar Tomar, AOR

UPON hearing the counsel the Court made the following

O R D E R

The transfer petitions stand disposed of in terms of the signed order.

All pending applications also stand disposed of.

(MEENAKSHI KOHLI)

ASTT. REGISTRAR-cum-PS

(RANJANA SHAILEY)

COURT MASTER

[Signed order is placed on the file]