

**IN THE HIGH COURT OF MADHYA PRADESH  
AT INDORE  
BEFORE  
HON'BLE SHRI JUSTICE SUBODH ABHYANKAR**

**ON THE 6<sup>th</sup> OF OCTOBER, 2023**

**MISC. CIVIL CASE No. 1643 of 2022**

**BETWEEN:-**

**SMT. SWATI W/O ABHIJEET SINGH CHOUHAN,  
AGED ABOUT 29 YEARS, OCCUPATION:  
HOUSEWIFE R-2, 50895, GOVIND GARDEN  
COLONY CANTT. ROAD GUNA (MADHYA  
PRADESH)**

**.....APPLICANT**

**( BY SHRI KAPIL MAHANT, ADVOCATE )**

**AND**

**ABHIJEET SINGH CHOUHAN S/O MAHENDRA  
SINGH CHOUHAN, AGED ABOUT 34 YEARS,  
OCCUPATION: SOFTWARE ENGINEER 18  
SANCHAR NAGAR EXTENSION KANADIA  
ROAD INDORE (MADHYA PRADESH)**

**.....RESPONDENT**

**( BY SHRI PRASHANT UPADHYAY, ADVOCATE )**

.....  
*This application coming on for admission this day, the court passed  
the following:*

**ORDER**

They are heard and perused the record.

1] This Misc. Civil Case has been filed by the petitioner/wife under Section 24 of the C.P.C. for transfer of a case bearing RCS-HM No.667/2022 filed by the respondent/husband under Section 13(1) Hindu Marriage Act, 1955 pending in the Family Court, Indore to Family Court, Guna.

2] In brief, the facts of the case are that the petitioner's and the respondent's marriage was solemnized in the year 2018. However, soon thereafter some matrimonial discord took place between the parties. The petitioner/wife has already lodged four cases against the respondent/husband relating to their matrimonial disputes viz; under Section 498-A of the IPC bearing RCT no.2211/2020, second case is filed under Section 9 of the Restitution of Conjugal Rights Act, 1955 bearing RCS HM no.46/2020, third case is under Section 11 of the Domestic Violence Act, 2005 bearing case No.MJC 89/2020 and fourth case is under Section 125 of Cr.P.C. bearing case No.229/2021 for maintenance.

3] Counsel for the petitioner has submitted that the divorce petition has been filed by the respondent/husband in April, 2022, and the distance between Guna to Indore is 330 km. and considering the fact that there is no other person to accompany the petitioner from Guna to Indore, it would be difficult for her to attend the Family court at Indore. It is also submitted that the respondent/husband is already attending all the other cases at Guna as aforesaid, and he would not have any difficulty if the aforesaid case of divorce is transferred to Guna.

4] In support of his submissions, counsel for the petitioner has relied upon the decisions rendered by the Hon'ble Supreme Court in the case of ***Sumita Singh vs. Kumar Sanjay and another*** decided on 26.2.2001 reported as AIR 2002 SC 396 and in the case of ***N.C.V. Aishwarya vs. A.S. Saravana Katthik Sha*** reported as 2022 LiveLaw (SC) 627

5] On the other hand, learned counsel for the respondent/husband has submitted that no case for transfer is made out as the petitioner herself is also a Software Engineer, she is well travelled, and is earning handsomely, and thus, it cannot be said that she cannot travel from Guna to Indore all by herself and even otherwise, she has her father, who is in police, and brothers at her home to accompany her. It is also submitted that although four false cases have been registered by the petitioner/wife against the respondent/husband at Guna, however, even in those cases she and her witnesses are not appearing, and in fact, in the case filed under Section 498-A of the IPC, the petitioner/wife, her father and brother were required to be summoned in the court by issuance ofailable warrants. Thus, it is submitted that if the present case is also transferred to Guna, this matter would also be dragged by the petitioner and her parents with a view to further harass the respondent. Counsel has also submitted that the petitioner/wife was also employed in Indore earlier.

6] Counsel has also submitted that the Indore is the natural place of the territorial jurisdiction, as their marriage was solemnised at Indore. It is also submitted that the applicant is not only a B.E. in

Electronic and Communication Engineering, she has also completed the same from Indore only and has resided for a considerable period of time at Indore, and was also at Indore subsequent to her graduation after 2015. The documents regarding which has also been filed on record wherein, her salary slip is also filed demonstrating that she was earning Rs. 30,000/- per month in the year 2018. Subsequently, they have also went to Chandigarh for their respective employment. It is also submitted that although the applicant is capable of travelling alone, however, she can still accompany by her father and two brothers both aged about 26 and 29 years old. It is also submitted that the applicant's application for interim maintenance has also been denied by the Family Court on account of her handsome salary, which she is now earning. Copy of the order is also placed on record. It is also submitted that father of the respondent has undergone a major open heart surgery in Indore, and he is also required to be looked after.

7] In support his submissions, counsel for the respondent has relied upon the decision rendered by the Co-ordinate Bench of this Court at Jabalpur in the case of ***Sunaina Vishwakarma vs. Vijay Kumar Vishwakarma*** {Misc. Civil Case No.2653/2019 decided on 24.4.2019}.

8] Heard the counsel for the parties, and also perused the record.

9] From the record, it is apparent that both the applicant and the respondent are Software Engineers, however, in the cause title of this application, the applicant has stated her occupation to be a house

wife only, so as to gain undue leverage in the matter. It is also found that the applicant has already filed a case under Section 9 of the Restitution of Conjugal Rights Act, under Section 11 of the Domestic Violence Act, for maintenance case under Section 125 of Cr.P.C., and also a case of cruelty under Section 498-A of the IPC, and has filed the present application for transfer solely on the ground that she is a woman and cannot travel alone all the way from Guna to Indore, which is almost a day's journey, and two days' to travel back to her parent's house at Guna.

10] It is also found that the respondent has filed on record the copy of the proceedings of the trial court at Guna dated 3.6.2023, in the criminal case No. RCT 161/2021, wherein it is directed to issue arrest warrant to the applicant on account of her non-appearance in the court.. In another Service report it is mentioned that she was not found at home, in yet another *tasdik panchnama*, her family members have informed to the process server that she is not at home and has gone out.

11] In such facts and circumstances of the case, this Court is of the considered opinion that the applicant herself is a woman of sufficient means, is well educated, she has resided in Indore at the time of her graduation and is also well travelled. She has also filed all the aforesaid cases, which can be filed by a wife against her husband, her grievance that she is a woman and it would be difficult for her to travel all the way from Guna to Indore does not find force with this Court.

12] The Supreme Court in the case of *Anindita Das vs. Srijit Das* reported as (2006) 9 SCC 197 whereby, the Court has held as thus:

“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.”

13] In such circumstances, when the applicant is also shown to be grossly negligent in appearing in the court in those cases which have been filed by her in Guna itself, her plea of inconvenience cannot be accepted by this Court. Further, because the matrimonial home of the applicant was at Indore only, it would also be difficult for all the witnesses of the respondent to travel from Indore to Guna only to accommodate the applicant.

14] So far as the decisions rendered by the counsel for the applicant in the case of *N.C.V. Aishwarya (supra)* is concerned, in the peculiar facts and circumstances of the case, the same is of no avail to the applicant and is not applicable in the present case, as considering the applicant's conduct in prosecuting the cases filed by herself at Guna, the only reason why the divorce case is sought to be transferred to Guna is to further harass the respondent. So far as the decision rendered by the Supreme Court in the case of *Sunia Singh* (supra) is concerned, in which, it is stated as under:-

“3. It is the husband’s suit against the wife. It is the wife’s convenience that, therefore, must be looked at, the circumstances indicated about are sufficient to make the transfer petition absolute.”

The aforesaid case can be distinguished from the case at hand as the respondent/husband has demonstrated that even in the cases filed by the applicant, she is not appearing in the court and her presence was procured by issuance of arrest warrant only.

15] In view of the same, the application being devoid of merit is hereby **dismissed**.

(SUBHODH ABHYANKAR)  
**JUDGE**

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