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Ujjwala Sharma Vs. Manish Sharma

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Court : Madhya Pradesh

Decided On : Mar-13-2013

Appellant : Ujjwala Sharma

Respondent : Manish Sharma

Advocate for Def. : Shri. Piyush Jain

Advocate for Pet/Ap. : Shri. Rajesh Nema

Judgement :

M.Cr.C No.12963 of 2012 M.Cr.C.No.12963 o

13. 03.2013 Shri Rajesh Nema, learned counsel for the applicant.

Shri Piyush Jain, learned counsel for the respondent.

Heard.

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ORDER

) ORAL (1) The applicant - wife has filed this petition under Section 407 of Cr.P.C.to transfer the Misc.

Criminal Case No.44/2011 (Ujwala Sharma versus Manish Sharma) pending in the court of Judicial Magistrate, Ist Class, Chhatarpur, from such Court to some competent court, having the territorial jurisdiction over the matter at Bhopal.

(2) As per averments of the petition, the applicant herein filed the aforesaid proceeding under Section 125 of Cr.P.C.in the above mentioned court at Chhatarpur.

At the time of filing the proceeding, the father of the applicant being in service of the bank was residing at Chhatarpur and subsequently in pendency of this case her father has taken V.R.S.from his service and thereafter settled at Bhopal.

Pursuant to it, the applicant has also come to Bhopal and residing with her father.

It is also stated that the respondent is permanent resident of Bhopal.

In such premises, on M.Cr.C No.12963 of 2012 the basis of convenience of both the parties, the prayer for transferring the aforesaid case from Chhatarpur to Bhopal is made.

(3) The applicant's counsel after taking me through the averments of the petition and the placed documents on record argued the case for transferring the case as stated above while the respondent's counsel has seriously opposed this petition saying that looking to the conduct of the applicant, she is not entitled to get the relief, as prayed in the petition.

In continuation he said that on earlier occasion the proceeding filed by the respondent herein against the applicant at Bhopal under Section 9 of the Hindu Marriage Act for restitution of conjugal right was got transferred from Bhopal to Chhatarpur from this Court, vide order dated 9.9.2011 in MCC No.589/2011.

He also referred the photocopy of such order, the same is taken on record.

With these submissions prayed for dismissal of this petition.

(4) On asking the respondent's counsel whether he has to face any inconvenience, if the case is transferred from Chhatarpur to Bhopal, on which he fairly stated that

the respondent has not to face any inconvenience if the case is transferred from Chhatarpur to Bhopal.

M.Cr.C No.12963 of 2012 (5) Keeping in view the arguments advanced by the counsel, after perusing the averments of the petition alongwith the papers placed on record and the aforesaid order referred by the respondent's counsel, I am of the considered view that keeping in view the convenience of both the parties, the impugned case should be transferred from Chhatarpur to Bhopal.

It is apparent that the respondent is permanent residents of Bhopal and till today he is bound to go and defend the aforesaid case at Chhatarpur and when the applicant is residing with her father at Bhopal, then she is also bound to go and prosecute the case at Chhatarpur and if the case is transferred from Chhatarpur to Family Court, Bhopal, then both the parties may contest the case conveniently at Bhopal.

(6) It also appears that the material witnesses of the parties are also residing at Bhopal.

(7) So in all the aforesaid circumstances, this petition deserves to be and is hereby allowed.

(8) In view of the aforesaid, the Misc.

Criminal Case No.44/2011 pending in the Court of Judicial Magistrate, Ist Class, Chhatarpur is hereby directed to be transferred immediately from M.Cr.C No.12963 of 2012 such court to Principal Judge, Family Court, Bhopal for its further trial and adjudication.

(9) The applicant's counsel is directed to file the certified copy of this order before the aforesaid court at Chhatarpur as well as Family Court, Bhopal within fifteen days from today.

(10) The parties present are further directed to carry out the necessary correction in the pending proceeding before the trial court which are necessary to hear the same by the Family Court, Bhopal.

Such correction shall be carried out after receiving the record at Family Court, Bhopal.

The petition is allowed as indicated above.

C c as per rules.

(U.C.Maheshwari) Judge bks

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