

Smt. Archna Singh Vs. Dilip Singh

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Court : Madhya Pradesh

Decided On : Aug-14-2013

Appellant : Smt. Archna Singh

Respondent : Dilip Singh

Advocate for Pet/Ap. : Shri. Mahendra Dubey

Judgement :

1 MCC No.979 o

14. 8.2013 Shri Mahendra Dubey, counsel for the applicant. Heard on the question of admission.

ORDER

(ORAL) 1. The applicant/ wife has filed this petition under section 24 of the CPC for transferring the HMA No.66-A/13 pending in the Court of District Judge, Damoh filed by the respondent under section 13 of the Hindu Marriage Act, from such Court to some court of District Judge, District Sagar.

2. As per averments of the petition, on account of some matrimonial dispute between the applicant and the respondent, under compulsion, the applicant is residing with her parental family at Sagar and in her parental family, no competent male member is available to come with her to attend the aforesaid case at Damoh and she is also under apprehension of some unhappy incident by the respondent at Damoh because he is a practicing lawyer of Damoh. In such premises, she has

also apprehension that she could not contest the matter properly at Damoh because no competent Advocate is available to accept her brief. With these averments prayer for transfer of the case from Damoh to Sagar is made.

3. Keeping in view the aforesaid averments of the petition and the arguments advanced by the counsel, I have carefully gone through the papers available on the record. It is apparent fact that district Sagar is at a distance of near about 200 km from district Damoh and it takes two hours for the journey by bus and, in such premises, the person like applicant may easily go by bus in the morning and may come back in the evening. If she wants any other person to accompany her then she can do that also. So far the expenses of such traveling and other expenses, are concerned, the trial court may be directed to pass appropriate order in this regard with a 2 MCC No.979 of 2013 direction that unless such payment is made by the respondent to the applicant she could not be persuaded to come and attend the case at Damoh. So far the apprehension in the mind of the applicant that some unhappy incident may happen with her on going to Damoh is concerned then, in that regard, the trial court is at liberty to consider the prayer of the applicant if any application in the matter is filed by her and if prima facie the apprehension of the applicant is found correct then the trial court may give appropriate direction to the police authorities to give protection to the applicant whenever she come to Damoh in connection of the aforesaid case.

4. So far the contention that respondent is an Advocate and therefore, she is not in a position to engage any competent lawyer at Damoh is concerned, I do not find any merit in this contention because there is no papers on record to show that any competent advocate was approached by the applicant and he refused to accept her brief. So, in the lack of it, mere on vague allegations, such ground could not be a foundation to transfer the case. In such premises the prayer to transfer the aforesaid case from Damoh to Sagar is hereby rejected. Pursuant to it, this petition is hereby dismissed at this stage.

5. However, in the available circumstances, the trial court is directed, that before calling or pursuing the applicant to come and attend the case at Damoh, to give appropriate direction to the respondent to pay her reasonable expenses and send

the same to her through money order before some days of the first date of hearing at Damoh and also direct the respondent to pay the expenses of further dates in advance to the next date. The trial court is further directed that on filing the appropriate application on behalf of the applicant on the basis of some apprehension of unhappy incident at the instance of the respondent at Damoh then, if such allegations are prima facie found to be correct then appropriate direction be given to the police authorities to provide the protection to the applicant while coming to Damoh.

6. So far the ground regarding non-availability of the counsel is 3 MCC No.979 of 2013 concerned, the applicant is extended a liberty to file the appropriate application by mentioning the name of the Advocates who refused to accept her brief at Damoh. On filing such application, the trial court is directed to verify the position and pass appropriate order in that regard and if Advocate refuses to accept the her brief before the court then the applicant shall be at liberty to file the fresh application under section 24 of the C PC before this court.

7. Accordingly, this petition is dismissed with aforesaid observations, liberty and direction. (U.C.Maheshwari) Judge MKL

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