

Smt. Shiva Vs. Sumit Ranjan

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Court : Madhya Pradesh

Decided On : Feb-04-2000

Reported in : II(2000)DMC275

Judge : V.K. Agarwal, J.

Acts : [Code of Civil Procedure \(CPC\) , 1908](#) - Sections 24

Appeal No. : Misc. Civil Case No. 851 of 1999

Appellant : Smt. Shiva

Respondent : Sumit Ranjan

Advocate for Def. : A.P. Singh, Adv.

Advocate for Pet/Ap. : N.K. Shukla, Adv.

Disposition : Application allowed

Judgement :

ORDER

V.K. Agarwal, J.

1. This is an application under Section 24 of C.P.C. for transfer of Civil Suit No. 40-A/99 pending in the Court of Additional District Judge, Narsinghpur, to the Court of competent jurisdiction at Bhopal.

2. The parties were married on 14.12.1996 according to Hindu rites and customs at Bhopal. A son was born out of the wedlock on 29.6.1998 at Bhopal. It is also not in dispute that the petitioner is residing at her parental home at Bhopal.

3. The petitioner has averred in her application that she was being treated by her husband and his family members with cruelty and she was physically assaulted. Therefore, her parents had taken her back with them to Bhopal, where she delivered a male child. While the petitioner was admitted in the Maternity Home, the respondent came there and quarrelled With her. The respondent/husband has thereafter filed a petition for divorce at District Court, Narsinghpur, which was transferred to the Court of Additional District Judge, Narsinghpur and is pending there. It was further averred that the petitioner was treated with cruelty during her pregnancy and when she tried to visit her matrimonial home, the respondent unleashed the dogs to chase her. She has an infant child in her lap and has no safe shelter at Narsinghpur. The respondent and his father are practising Advocates at Narsinghpur and the petitioner finds it difficult to engage a Counsel to contest the petition filed by her husband. She seriously apprehends threat to her life in case she visits Narsinghpur. The respondent and his family members are having hostile attitude towards her. Therefore, she prays that the said Civil Suit No. 40-A/99 filed by her husband/respondent may be transferred to the Court at Bhopal.

4. The respondent denied the above allegations. It has been submitted that the petitioner went to Bhopal on the pretext of pursuing her studies and appearing in the examination there. She has been insisting from the inception of their marriage that the respondent should not stay with his parents and should come to live at Bhopal alongwith the petitioner. She never took the responsibilities of a house wife and mis-behaved with the respondent and his family members. It was also alleged that police pressure was brought upon by the petitioner on the respondent and his family members and threats have been issued through close family friends by the petitioner. The respondent visited the petitioner at the hospital at Bhopal, where he was shabbily treated. Therefore, the respondent was forced to file the petition for divorce. It has also been averred that the allegations in the petition are malicious and sheer concoction. It has been submitted that the apprehension expressed by

the petitioner is mis-conceived and the application for transfer deserves to be dismissed.

5. Learned Counsels during the course of argument supported the contentions raised in the petition for transfer and its reply respectively.

6. Learned Counsel for petitioner/wife has relied upon *Kamla Bai v. Pyare Lal*, I (1992) DMC 43; and *Smt. Kiran v. Harish*, I (1996) DMC 538, as also on the decision in *Smt. Rupa Mishra v. Girja Shankar*, M.C.C. No. 534 of 1999.

7. Learned Counsel for respondent in support of his submission relied upon *Smt. Sandhaya Maheshwari v. Sanjay Maheshwari*, M.C.C. No. 299 of 1997, and has prayed that mere apprehension to the injury is not a sufficient ground for transfer of the case.

8. Section 24 of C.P.C. gives wide and general powers of transfer of suits, appeals or other proceedings to the District Court and to the High Court. The power of transfer conferred under Section 24 of C.P.C. can be exercised at any stage of the proceedings and suits, etc., can be transferred even suo motu. No strait-jacket formula can be formulated for exercise of such discretionary powers for all the situations. It is for the Court to find out from the allegations made, whether any reasonable ground is made for transfer of the case or not?

9. The parties to the petition were married about three years back and it appears that their marriage faced rough weather from the inception. The petitioner has given birth to a son at Bhopal on 29.6.1998, while residing with her parents. The allegations and counter allegations levelled by each of the parties cannot be considered on merits at this stage. But, it is clear, as is usual in the matrimonial proceedings, that the relationship between the parties is very bitter and their mutual relations have considerably deteriorated. The petitioner/wife submits that she had met with rough treatment at the hands of respondent/husband as well as his family members when she visited Narsinghpur. An affidavit has been filed by her in support of her case. It has also been submitted on her behalf that the petitioner has no source of income and that she has a small child in her lap. It would be, therefore, difficult for the petitioner to visit Narsinghpur to defend her

case. It has further been submitted that the respondent and his father are well off and are Advocates.

10. Learned Counsel for respondent has however controverted the above averments and has submitted that the respondent and his father, though are enrolled as Advocates but are not practising as such. They hold agricultural land and their source of livelihood is agriculture. It has also been urged that a very well and highly placed police officer is a close relative of the petitioner and she has been getting police protection all along. Threats have been extended and pressure has been brought upon the respondent by the petitioner and his family members.

11. Considering the allegations made by the petitioner and the circumstances of the case, it appears that the petitioner has apprehension that she would not be able to properly defend her case at Narsinghpur. She has also a young son, and that it would cause her great inconvenience to come to Narsinghpur, to attend the hearings in the suit. However, the respondent has also expressed that the petitioner is very well connected and is a close relative of a highly placed police officer. He also avers that pressure was brought on him and threat was extended to him.

12. In the foregoing circumstances, it appears just and proper to transfer the case from Narsinghpur to Hoshangabad, which is a place near Narsinghpur as well as Bhopal, where the parties could pursue their remedy independently without pressure and threat by either of them, as has been alleged by them.

13. In view of above, the application for transfer is allowed. Civil Suit No. 40-A/99 pending in the Court of Additional District Judge, Narsinghpur filed by the respondent/husband is transferred to the Court of District Judge, Hoshangabad, who may try the said case either himself, or may transfer the case to any Court of competent jurisdiction, for trial in accordance with law.