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IN THE HIGH COURT OF ORISSA, CUTTACK

TRPCRL No.98 of 2024

Chittaranjan Padhiary & Petitioners
others
-Versus-
Jasmine Das Opposite Party

TRPCRL No.99 of 2024

Chittaranjan Padhiary Petitioner
-Versus-
Jasmine Das Opposite Party

Advocate for the parties

For Petitioners : **Mr. Pranaya Swain**
(In both the cases) **Advocate**

For Opposite Party : **In Person**
(In both the cases)

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CORAM: JUSTICE SANJAY KUMAR MISHRA

Date of Hearing : 24.06.2025 & Date of Judgment :07.07.2025

S.K. MISHRA, J.

1. TRPCRL No.98 of 2024 has been filed by the Petitioner-husband, his parents and relatives under section 447 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 for transfer of D.V. Misc. Case No.103 of 2024 filed by the Opposite Party-wife



against the Petitioners under section 12 of the Protection of Women from Domestic Violence Act, 2005 from the Court of JMFC (City), Balasore to the Court of JMFC-III, Cuttack.

2. Similarly, TRPCRL No.99 of 2024 has been filed by the Petitioner-husband under section 447 of BNSS, 2023 for transfer of Cr.P No.225 of 2024 filed by the Opposite Party-wife against the Petitioner-husband under section 144 of BNSS, 2023 for maintenance from the Court of Judge, Family Court, Balasore to the Court of Judge, Family Court, Cuttack.

3. Petitioner No.1 in TRPCRL No.98 of 2024, is also the sole Petitioner in TRPCRL No. 99 of 2024 and the sole Opposite Party in both the cases being his wife, both the cases are taken up together and disposed of vide this common Judgment.

4. In TRPCRL No.98 of 2024, the Petitioner No.1 is the husband of the sole Opposite Party. The Petitioner Nos.2 & 3 are the father and mother of Petitioner No.1 respectively. Petitioner Nos.4 & 5 are the sister and brother-in-law of Petitioner No.1 respectively. Petitioner Nos.6 and 7 are the maternal uncle and aunty (mousa and mausi). Petitioner No.8 is the cousin brother of Petitioner No. 1 and Petitioner No.9 is the godly sister of the father of the Petitioner No.1. All the Petitioners have been entangled as



Opposite Parties in D.V. Misc. Case No.103 of 2024 filed by the Opposite Party.

5. The TRPCRL No.98 of 2024 has been filed on the grounds that Petitioner No.1-husband is a Govt. Medical Officer (Doctor) and at present working at Kandhal PHC in the District of Debagarh/Deogarh, which is more than 300 kms away from Balasore. Petitioner Nos.2 and 3, who are the father and mother of Petitioner No.1, are suffering from various diseases and residing in Cuttack. Petitioner Nos.4 and 5, who are the sister and brother-in-law of Petitioner No.1, are serving in Shillong (Meghalaya) as Central Govt. Employee and Doctor at Sum Hospital, Bhubaneswar respectively. Petitioner Nos.6 and 7, who are the maternal uncle and aunty of Petitioner No.1, are residing in Cuttack and are no way concerned in the said Domestic Violence Case and have been falsely implicated in the said case and it would be painful as well as burdensome for them to appear before the concerned Court at Balasore ,which is around 180 kms away from Cuttack, at their own cost. The Petitioner No.8, who is the cousin brother of Petitioner No.1, is at present residing in Jatani in the district of Khurdha and has been falsely implicated as one of the Opposite Parties in the said case and it would be difficult on his part to appear before the concerned Court at Balasore at his



own cost, which is around 220 kms away from Jatani. Petitioner No.9, who is the godly sister of the father of Petitioner No.1 and no way connected with the said case, having no domestic relationship with the Opposite Party, is residing in Cuttack. It will be painful as well as burdensome for her to appear before the concerned Court at Balasore, which is around 180 kms away from Cuttack.

6. That apart, it has been alleged that the mother and maternal uncle of the Opposite Party-wife are having criminal antecedents under section 302 of IPC. There is a life threat from the family members of the Opposite Party-wife, if the Petitioners appear before the concerned Court at Balasore.

7. Opposing to such prayer of transfer, the Opposite Party- wife has filed a Counter Affidavit taking a stand therein that she has filed the case at Balasore as the marriage was solemnized at Balasore. Soon after the marriage, she was tortured by her in-laws, which she tolerated with a hope that by passing of time, they would lead a happy conjugal life. But unfortunately on 17.06.2024 her husband along with her in-laws tried to kill her. However, hearing the calling bell of someone they left her. Thereafter, she telephoned her father, who came to Cuttack and lodged an FIR at Malgodown Police Station. Thereafter, with the help of Malgodown Police, Cuttack she was rescued and left for Balasore along with



her father. After little bit recovery, she lodged an FIR at Balasore on 23.06.2024. Now she is residing at her parental house in Balasore.

8. A further stand has been taken in the Counter Affidavit that the Petitioner No.1 is at present serving at Barkote. There is no much difference, so far as distance from Barkote to Balasore and Barkote to Cuttack, as has been alleged. Moreover, the Petitioner No.1, is though working in CHC, Barkote, he is not attending the hospital for three days in a week i.e. Saturday, Sunday & Monday. Usually, he comes to Cuttack on every Saturday and returns to his workplace on Tuesday. The said ground of distance from Barkote to Balasore for transfer of matrimonial case to Cuttack, which is his hometown, is unsustainable as the Opposite Party, who is a distressed and deserted lady, is residing in Balasore, which is around 170 kms away from Cuttack.

9. It has further been stated in the Counter Affidavit that domestic violence case has been filed in Balasore, as per the provisions enshrined under section 19 of the Hindu Marriage Act, 1955 and in view of the settled position of law, convenience of wife must be looked at while considering an application for transfer.



Hence, the prayer for transfer of proceeding from Balasore to Cuttack is liable to be dismissed in limine.

10. That apart, to counter one of the grounds urged in the transfer petition that the Petitioner No.1 is not getting permission from the authority to attend the Court at Balasore, it has been stated that if the case is transferred to Cuttack how come the Petitioner No.1 would be permitted by the authority concerned to attend the Court at Cuttack, if he is not granted leave to attend the case at Balasore.

11. Reiterating the grounds urged in the transfer petition, learned Counsel for the Petitioners submitted that the prayer made in the transfer petition should be allowed and the D.V. Misc. Case No.103 of 2024, pending in the Court of JMFC (City), Balasore be transferred to Court of JMFC-III, Cuttack.

12. Per contra, the Opposite Party-wife submitted that the present transfer petition has been filed by the Petitioner-husband and her in-laws intentionally to drag the adjudication of D.V. Misc. Case No.103 of 2024 so also Cr.P No.225 of 2024 filed by her before the Judge, Family Court, Balasore for interim maintenance. She further submitted, apart from these two cases, she has also lodged an FIR against the present Petitioners vide Balasore Sadar



P.S. Case No.268 of 2024 under Section 498-A/294/323/506/34 of I.P.C read with Section 4 of Dowry Prohibition Act, 1961 in Balasore. She being a deserted and distressed lady, having no income, is at present residing with her father, who is an ex-defence personnel. She further submitted that the entire allegations made in the transfer petition are false and fabricated to mislead this Court and to harass her further.

13. The Opposite Party further submitted that since the present Petitioners, who are the Opposite Parties in D.V. Misc. Case No.103 of 2024, refused to accept the summons, all of them were set ex-parte on 30.09.2024. Subsequently all of them appeared on 04.11.2024 through their Advocates and filed application to recall the ex-parte order. Thereafter, after taking several adjournments, ultimately on 08.01.2025 the ex-parte order was set aside and the objection filed by the present Petitioners, who are the Opposite Parties before the Court below, was accepted. When the matter stood posted to 05.03.2025 for hearing, they obtained order from this court staying further proceeding in D.V. Misc. Case No.103 of 2024 so also further proceeding in Cr.P No.225 of 2024, which has been filed by her for interim maintenance before the Court of Judge, Family Court, Balasore under section 144 of the BNSS.



14. The Opposite Party submitted that because of the stay order passed by this Court, the learned Court below could not proceed further in both the said cases and no order could be passed in her favour directing interim maintenance till date, for which she is leading a miserable life, as she has to depend on her father for her livelihood and litigation expenses. She further submitted, it would be difficult on her part to attend the cases in Cuttack, if prayers made in the present transfer petition so also in TRPCRL No.99 of 2024 filed by the Petitioner-husband are allowed.

15. She further submitted, so far as alleged criminal antecedents, in a suicide case, her mother was falsely implicated as a co-accused in the Balasore Sadar P.S. Case No.260 of 2013 and she has been acquitted long back in the said case by the concerned Court.

16. As is revealed from records in TRPCRL No.99 of 2024, the Petitioner-husband has filed the said transfer application for transfer of Cr.P No.225 of 2024 filed by the Opposite Party-Wife under section 144 of BNSS for maintenance, from the Court of Judge, Family Court, Balasore to the Court of Judge, Family Court, Cuttack on the grounds that at present he is working at Kandhal PHC in the District of Deogarh, which is around 300 kms away from Balasore. Though the Opposite Party-wife has lodged an



FIR before the Balasore Sadar Police Station against nine persons under section 498-A and other provisions of IPC, subsequently, the charge sheet was submitted only against three persons i.e. the Petitioner-husband and his parents. The mother and maternal uncle of the Opposite Party-wife having criminal antecedents under section 302 of IPC in connection with Balasore Sadar P.S. Case No.260 of 2013, many times the Petitioner No.1 and his family members were threatened by the family members of the Opposite Party-wife. Hence, he is apprehending life risk, if he appears before the concerned Court at Balasore.

17. Law is well settled that, while dealing with application for transfer of matrimonial cases, the Court has to examine various factors and most important factor is the convenience of wife.

18. At this juncture, it would be apt to deal with the Judgment of the Supreme Court reported in 2022 SCC Online SC 1199 (***N.C.V. Aishwarya Vs. A.S. Saravana Karthik Sha***), wherein it is held as follows:-

*“8. It is not disputed that the appellant is the resident of Chennai and that the appellant’s husband-respondent herein is the resident of Vellore and he is employed. **The appellant who is 21 years old does not have any source of income of her own as she is not employed and is totally***



dependent on her parents for her livelihood. In order to attend the court proceedings of the case filed by her husband at Vellore she has to travel alone all the way from Chennai to Vellore as her parents are not in a position to accompany her on account of their old age. Secondly, the appellant has also filed a petition, H.M.O.P. No.1741 of 2021, for restitution of conjugal rights and another petition, M.C. Sr. No.672 of 2021, for her maintenance before the Family Court at Chennai.

9. *The cardinal principle for exercise of power under Section 24 of the Code of Civil Procedure is that the ends of justice should demand the transfer of the suit, appeal or other proceeding. In matrimonial matters, wherever Courts are called upon to consider the plea of transfer, **the Courts have to take into consideration the economic soundness of both the parties, the social strata of the spouses and their behavioural pattern, their standard of life prior to the marriage and subsequent thereto and the circumstances of both the parties in eking out their livelihood and under whose protective umbrella they are seeking their sustenance to life. Given the prevailing socioeconomic paradigm in the Indian society, generally, it is the wife's convenience which must be looked at while considering transfer.***

10. *Further, when two or more proceedings are pending in different Courts between the same parties which raise common question of fact and law, and when the decisions in the cases are interdependent, it is desirable that they should be tried together by the same Judge so as to avoid multiplicity in trial of the same issues and conflict of decisions."*

(Emphasis supplied)

19. Admittedly, the Opposite Party-wife in both the transfer petitions, after her desertion, is now residing in Balasore with her parents, having no income and no interim order could be passed by the competent Court directing to pay the interim maintenance



to the Opposite Party-Wife because of the stay order passed by this Court at the instance of the Petitioners. Apart from D.V. Misc. Case No.103 of 2024 and Cr.P No.225 of 2024, she has also lodged an FIR against the present Petitioners in Balasore vide Balasore Sadar P.S. Case No.268 of 2024 under Section 498-A/294/323/506/34 of I.P.C read with Section 4 of Dowry Prohibition Act, 1961. Hence, this Court is not inclined to allow the prayer made in the transfer application filed by the Petitioner-husband, his parents and relatives for transfer of D.V. Misc. Case No.103 of 2024 so also transfer application filed by the Petitioner-husband for transfer of Cr.P No.225 of 2024 to the Court at Cuttack.

20. However, in view of the reasons detailed in the forgoing paragraphs, this Court is of the view that interest of justice will be best served, if the parties, who are either stationed or serving at different places, are permitted to appear through virtual mode before the concerned Courts.

21. Accordingly, both the transfer petitions stand disposed of requesting the Court of JMFC (City), Balasore so also Judge, Family Court, Balasore to explore the facilities of Video Conferencing available in the said Courts and permit the Petitioners, who are the Opposite Parties in D.V. Misc. Case No.103



of 2024 and the present Opposite Party-wife, who is the Petitioner in the said case and the Petitioner, who is the sole Opposite Party in Cr.P No.225 of 2024 and the Opposite Party-wife, who is the Petitioner in the said case, to appear through virtual mode.

22. Both the Courts are further requested to allow the parties to appear through virtual mode following due procedure as prescribed under the Orissa High Court Video Conferencing for Courts Rules, 2020. However, on the dates of effective hearing i.e for examination and cross-examination of witnesses, so also for other purposes, if so required and ordered by the concerned Court, the parties shall remain physically present before the Courts at Balasore.

23. Both the Courts are requested to do the needful for early disposal of D.V. Misc. Case No.103 of 2024 so also Cr.P No.225 of 2024. Parties are directed not to ask for unnecessary adjournments in both the cases and cooperate with the concerned Courts for early disposal of both the cases.

24. Interim orders passed in both the transfer applications stand vacated.

25. Office is directed to communicate copy of this order to both Courts for doing the needful, as observed above.



26. Urgent certified copy of this order be granted on proper application as per rules.

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S.K. MISHRA, J.

*Orissa High Court, Cuttack.
Dated, 7th July, 2025/ Banita*