NC: 2025:KHC-K:343
CP No. 200062 of 2024

IN THE HIGH COURT OF KARNATAKA,

KALABURAGI BENCH

DATED THIS THE 21ST DAY OF JANUARY, 2025

BEFORE

THE HON'BLE MS JUSTICE J.M.KHAZI

CIVIL PETITION NO.200062 OF 2024 (RES)

BETWEEN:

SMT. AISHWARYA
W/O YALAGONDA PUJARI
D/O BASAVARAJ BALABATTI BEVINAGIDAD,
AGE: 25 YEARS,
OCC: HOUSEHOLD WORK,
R/O. C/O H.NO.593, KANAKDAS BADAVANE,
VIJAYAPURA – 586 109.

…PETITIONER

(BY SRI. YASHAS S. DIKSHIT, ADVOCATE)

AND:

1. YALAGONDA @ YALLAPPA
   S/O LAYAPPA PUJARI,
   AGE: 32 YEARS
   OCC: SERVICE IN PRIVATE SCHOOL,

2. KAMALABAI
   W/O LAYAPPA PUJARI,
   AGE: 55 YEARS,
   OCC: HOUSE HOLD WORK,

3. PREMALATA
   D/O LAYAPPA PUJARI,
   AGE: 35 YEARS,
   OCC: HOUSE HOLD WORK,

Digitally signed by SHIVALEELA DATTATRAYA UDAGI
Location: HIGH COURT OF KARNATAKA

4. SIDDALINGA
S/O LAYAPPA PUJARI,
AGE: 28 YEARS,
OCC: AGRICULTURE,

ALL ARE R/O NEAR SAI GARDEN JYOTI NAGAR,
TQ. SINDAGI, DIST: VIJAYAPURA.

…RESPONDENTS

(R1 TO R4 ARE SERVED & UNREPRESENTED)

THIS CIVIL PETITION IS FILED UNDER SECTION. 24 OF THE CIVIL PROCEDURE CODE, PRAYING TO PASS AN APPROPRIATE ORDER TO TRANSFER THE M.C.NO.51/2024 PENDING ON THE FILE OF ADDITIONAL SENIOR CIVIL JUDGE & JMFC SINDAGI AT: SINDAGI TO FAMILY COURT VIJAYAPUR, IN THE INTEREST OF JUSTICE AND EQUITY.

THIS PETITION, COMING ON FOR ADMISSION, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MS JUSTICE J.M.KHAZI

ORAL ORDER

(PER: HON'BLE MS JUSTICE J.M.KHAZI)

This petition is filed under Section 24 of the Code of Civil Procedure, with a prayer to transfer M.C.No.51/2024 pending on the file of Addl. Senior Civil Judge & JMFC, Sindagi to the Family Court, Vijayapura.

2. In support of the petition, the petitioner has contended that her marriage with respondent No.1 was performed on 04.05.2023 at Sindagi. At the time of marriage, dowry in the form of gold and articles worth of ₹2,00,000/- were given and marriage was performed by spending ₹.2,00,000/-. After two months of the marriage, respondents harassed and ill-iterated her to get additional dowry of ₹2,00,000/-, she was not provided with food. Threat of second marriage of respondent No.1 was also given. Despite holding a panchayat things did not improve. She was also not provided with medical treatment and ultimately on 27.01.2024 she was beaten and ousted from the matrimonial home. In this regard she has filed a complaint in Crime No.6/2024.

3. Petitioner has also filed a petition U/s 12 of the Protection of Women from the Domestic Violence Act of 2005 before the III Addl. Senior Civil Judge & CJM,

Vijayapura. However, the respondent No.1 has filed MC No.51/2024 seeking restitution on the file of Addl. Senior Civil Judge & JMFC, Sindagi. The distance between Vijayapura and Sindagi is 50 Kms. As a woman she is not able to travel to Sindagi to attend the said case. There is also risk her life. She is also not able to spend money for traveling expenses and hence the petition.

4. Though notice of this petition is duly served on respondent Nos.1 to 4, they have not appeared before the Court.

5. Heard the arguments and perused the records.

6. Thus petitioner who is legally wedded wife of respondent No.1 is seeking transfer of M.C.No.51/2024 filed by respondent No.1 before the Sindagi Court to Vijayapura were Criminal Misc. Petition filed by her for

maintenance and other reliefs is pending on the ground that it is difficult for her to attend the Court at Sindagi, which is at a distance of 50 Kms. from Vijayapura and there is also risk to her life. The grounds urged in the petition seeking transfer have remained unchallenged, since respondents have remained ex-parte. If M.C.No.51/2024 is transferred from Sindagi to Vijayapura it would also be difficult and inconvenient for respondent.

7. However, in the judgments, reported in ***(2001) 10 SCC 41*** in the matter of ***Sumita Singh vs. Kumar Sanjay and another*** and ***(2005) 12 SCC 237*** in the matter of ***Rajani Kishor Pardeshi vs. Kishor Babulal Pardeshi***, the Hon'ble Apex Court has held that in this type of matrimonial cases the inconvenience of wife has to be preferred over the inconvenience of the husband, especially when the litigation has been initiated by the husband.

8. Having regard to the facts and circumstances of the case and relying upon above two decisions of the Hon'ble Apex Court, I am of the considered opinion that the inconvenience that would be caused to the petitioner is more, when compared to that of the respondent. Therefore, the petitioner is entitled for the relief sought in the petition. Accordingly, I proceed to pass the following;

ORDER

I. The petition filed under Section 24 of the Code of the Civil Procedure is allowed.

II. The M.C.No.51/2024 on the file of Addl. Senior Civil Judge & JMFC, Sindagi filed by the respondent is withdrawn and transferred to the Court of the Family Court, Vijayapura.

III. The Family Court, Vijayapura is directed to take the matter on record and proceed in accordance with law.

Sd/-
(J.M.KHAZI)
JUDGE

SMP
List No.: 1 Sl No.: 21