NC: 2025:KHC-K:534
CP No. 200070 of 2024

IN THE HIGH COURT OF KARNATAKA,

KALABURAGI BENCH

DATED THIS THE 27TH DAY OF JANUARY, 2025

BEFORE

THE HON'BLE MS JUSTICE J.M.KHAZI

CIVIL PETITION NO.200070 OF 2024

BETWEEN:

1. GEETA W/O SANJEEVKUMAR HULABENCHI,
   AGE: 33 YEARS, OCC: HOUSEHOLD,
   R/O, C/O. DURGAPPA
   S/O HANAMANT GARASANGI
   INDIRA NAGAR, S.M.S HIGH SCHOOL BACKSIDE,
   MUDDEBIHAL, TQ. MUDDEBIHAL
   DIST: VIJAYAPURA – 586 212.

…PETITIONER

(BY SRI. VIJAYA MALLIKARJUNAPPA PATIL, ADVOCATE)

AND:

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

1. SANJEEKUMAR
   S/O SHIVAMALLAPPA HULABENCHI
   AGE: 31 YEARS, OCC: COOLIE,
   R/O. AT/POST: MANAGULI VILLAGE,
   TQ. B. BAGEWADI,
   DIST. VIJAYAPURA – 586 203.

…RESPONDENT

(BY SRI. S.V.DESHMUKH, ADVOCATE)

THIS CIVIL PETITION IS FILED UNDER SECTION 24 OF THE CIVIL PROCEDURE CODE, PRAYING TO TRANSFER THE PETITON IN M.C.NO.317/2024 PENDING ON THE FILE OF

FAMILY COURT, VIJAYAPUR, TO THE SENIOR CIVIL JUDGE AND JMFC, MUDDEBIHAL, TQ:MUDDEBIHAL, DIST:VIJAYAPUR.

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 by the petitioner-wife under Section 24 of the Code of Civil Procedure, 1908, with a prayer to transfer M.C.No.317/2024 pending on the file of Family Court, Vijayapura to the Court of Senior Civil Judge & JMFC, Muddebihal, Dist. Vijayapura.

2. In support of the petition, the petitioner has contended that her marriage with respondent was solemnized on 21.04.2022 at Managuli village, Basavana Bagewadi taluka, Vijayapura district.

3. Thereafter, the petitioner led happy married life only for few months. She was ill-treated and harassed by the respondent-husband, his parents and other family

members and sent to her parental house. Even after 2-3 months respondent and other family members did not make any attempt to take her back. When contacted, they demanded dowry. Even though her father paid ₹50,000/- and sent her back, once again she was driven out of her matrimonial home. Without any alternative, petitioner filed Crl.Misc.No.538/2024 for maintenance. As a counter blast, respondent has filed M.C.No.317/2024 for restitution of conjugal rights making false, frivolous and baseless allegations before the Family Court, Vijayapura.

4. The distance between Vijayapura and Muddebihal is 90 Kms. On account of strained relationship, it is not safe for the petitioner to travel to attend the Court at Vijayapura alone. She also not able to spend money for traveling and other expenses. Hence, the petition.

5. After due service of notice, respondent appeared through his counsel and submitted oral objections.

6. Heard the arguments and perused the records.

7. Thus, petitioner who is legally wedded wife of respondent, is seeking transfer of M.C.No.317/2024 pending on the file of Family Court, Vijayapura, to the Court of Senior Civil Judge, Muddebihal on the ground that criminal miscellaneous petition filed by her under Section 12 of Domestic Violence Act, is pending before the said Court and it is difficult for her to attend the Court at Vijayapura, which is at a distance of 90 kms from Muddebihal.

8. It is quite natural that, if M.C.No.317/2024 pending on the file of Family Court, Vijayapura is transferred to Muddebihal, it would also be difficult and inconvenient for respondent. 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.

9. Having regard to the facts and circumstances of the case and relying upon above two decisions of the Hon'ble Apex Court, this Court is 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 by the petitioner-wife under Section 24 of the Code of the Civil Procedure is hereby allowed.

(ii) The M.C.No.317/2024 pending on the file of Family Court, Vijayapura, filed by the

respondent-husband is withdrawn and transferred to the Court of the Senior Civil Judge & JMFC, Muddebihal.

(iii) The Court of Senior Civil Judge & JMFC, Muddebihal, is directed to take the matter on record and proceed in accordance with law.

Sd/-
(J.M.KHAZI)
JUDGE

SDU
LIST NO.: 1 SL NO.: 33
CT:NI