IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CMPMO No. 352 of 2026

Date of Decision: 29.07.2026.

Suneeta Devi .....Petitioner.

Versus

Sh. Hans Raj ... Respondent.

Coram:

Hon'ble Mr. Justice Romesh Verma, Judge.

Whether approved for reporting? [1]

For the petitioner: Mr. Arun Sehgal, Advocate.

For the respondent: Nemo.

Romesh Verma, Judge(*oral*):

The instant petition has been filed by the applicant/petitioner-wife for the transfer of the petition filed by the respondent-husband under Section 13(1)(ia) of the Hindu Marriage Act in the Court of learned Principal Judge (Family Court), Chamba on 2nd May 2026.

2. It has been averred in the petition that the parties solemnized their marriage in the year 1996 as per Hindu rites

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[1] *Whether the reporters of the local papers may be allowed to see the judgment?*

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and customs in the presence of their friends and relatives. Out of the said wedlock, three children were born and they are residing with the present petitioner. It is the case of the petitioner-wife that the behaviour of the respondent-husband is not good with the present petitioner. It has been contended in the petition that in order to harass the present petitioner, the present respondent-husband has filed the petition under Section 13(1)(ia) of the Hindu Marriage Act seeking for dissolution of the marriage *inter se* the parties on the ground of cruelty and desertion.

3. That in the petition which was instituted before the learned Additional Principal Judge, (Family Court), Chamba, notices were issued for the service of the present petitioner. It is the case of the present petitioner that the present respondent is working as a Station House Officer in Women Cell, Police Line, Chamba, District Chamba, H.P., and in order to humiliate the present petitioner, intentionally and willfully, he has filed the petition at District Chamba, though he is the permanent resident of Village Sutrahar, Post Office Nurpur,

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Tehsil Nurpur, District Kangra and the same fact is corroborated from the memo of parties of the divorce petition.

4. In the said petition filed for the grant of divorce, the present respondent has shown his address to be a resident of Village Sutrahar, Post Office Nurpur, Tehsil Nurpur, District Kangra, H.P. Therefore, it is the case of the petitioner that in order to mentally harass her, and on account of his transfer to Chamba, he has instituted the present petition.

5. It is contended by the learned counsel for the petitioner that the wife has no independent source of income, and in order to drag her, in uncalled for litigation, the petition for the grant of divorce has been filed at Chamba, which is at a considerable distance of more than 200 kilometers. It is further the case of the petitioner that on account of the financial constraints and on account of the long distance, it is very difficult for her to travel to such a distant place. Therefore, a prayer has been made that the divorce petition, which has been filed by the respondent at Chamba in the Court of learned Additional Principal Judge, (Family Court) Chamba,

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be transferred to the Court of Principal Judge, Family Court, Nurpur, in the interest of justice.

6. Though the notice was issued for the service of respondent, and as per the report, he was telephonically informed to attend the Court proceedings, whereby he was assumed to attend the proceeding and the copy of the summons was also sent to him on his WhatsApp number, but he has chosen not to appear before this Court. Consequently, he has been proceeded against *ex-parte*.

7. That since the present petition is primarily filed for the transfer of the divorce petition, therefore, without touching the merits of the case, this Court shall proceed further to examine whether the prayer of the petitioner can be accepted.

8. Learned counsel for the petitioner has relied upon the judgment of this Court passed in **CMPMO No. 538 of 2025 titled Jyoti Vs. Rakesh Dhiman** decided on 26th February, 2026, whereby after analyzing and taking into consideration the exposition of law as laid down by the Hon'ble Apex Court, this Court has held that in case of transfer of petition by the wife,

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the convenience of the wife must be looked at as against the convenience of the husband.

9. In the present case, the present petitioner has alleged that the distance from Chamba to Nurpur is more than 200 kilometers and it is very difficult for her to travel to such a considerable distance. It is further the case of the petitioner that on account of financial constraints, she cannot go to Chamba to attend each and every hearing of the proceedings.

10. While dealing with the issue of transfer of proceedings from one Court to another in matrimonial matters, the convenience of the wife is ordinarily to be preferred, in view of the mandate of the Hon'ble Supreme Court in **Sumita Singh v. Kumar Sanjay and another (2001) 10 Supreme Court Cases 41**, wherein it was held by the Hon'ble Apex Court that in case where wife seeks transfer of the petition then as against the husband, convenience of wife must be looked at.

11. In **Rajani Kishor Pardeshi vs. Kishor Babulal Pardeshi (2005) 12 Supreme Court Cases 237**, it has been held

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that in a case seeking transfer of the case at the instance of the wife, it was specifically held by the Hon'ble Supreme Court that the convenience of the wife was the prime consideration.

12. While dealing with the application for transfer of the proceedings in **Kulwindere Kaur alias Kulwinder vs. Kandi Friends Education Trust and others (2008) 3 SCC 659**, the Hon'ble Supreme Court after analyzing the provisions of Section 24 and 25 of C.P.C laid down certain parameters for transfer of the case and it was held as under:-

> *"23 Reading Sections 24and 25of the Code together and keeping in view various judicial pronouncements, certain broad propositions as to what may constitute a ground for transfer have been laid down by Courts. They are balance of convenience or inconvenience to plaintiff or defendant or witnesses; convenience or inconvenience of a particular place of trial having regard to the nature of evidence on the points involved in the suit; issues raised by the parties; reasonable apprehension in the mind of the litigant that he might not get justice in the court in which the suit is pending; important questions of law involved or a considerable section of public interested in the litigation; interest of justice demanding for transfer of suit, appeal or other proceeding, etc. Above are some of the instances which are germane in considering the question of transfer of a suit, appeal or other proceeding. They are, however, illustrative in nature and by no means be treated as exhaustive. If on the above or other relevant considerations, the Court feels that the plaintiff or*

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the defendant is not likely to have a fair trial in the Court from which he seeks to transfer a case, it is not only the power, but the duty of the Court to make such order."

13. In **Aarti Rani @ Pinki Devi and another vs. Dharmendra Kumar Gupta (2008) 9 SCC 353**, the Hon'ble Supreme Court while dealing with a case where the wife has sought transfer of the proceedings on the ground that it is difficult for her to attend the Court on Palamu, Daltonganj which is within the State of Jharkhand and is at a quite distance from Patna where she was residing with her child. Taking into consideration the convenience of the wife proceedings were ordered to be transferred.

14. Similarly in **Anjali Ashok Sadhwani vs. Ashok Kishan Chand Sadhwani AIR 2009 SC 1374**, whereby she sought the transfer of the case to Bombay from Indore in M.P. on the ground of inconvenience as there was none in the family to escort her to Indore and on this ground the proceedings were ordered to be transferred.

15. In **Civil Appeal No (s)4894 of 2022 arising out SLP (C) No(s). 16465 of 2021**, titled as **NCV Aishwarya vs. AS**

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Saravana Karthik Sha, the Hon'ble Supreme Court has outlined the cardinal principle for considering prayer for transfer of the proceedings from one Court to another in matrimonial matters in following terms:-

> *"8. It is not disputed that the appellant is the resident of Chennai and that the appellant's 6 (2026:HHC:5578) 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"*

16. Taking into consideration, the entirety of the facts and circumstances of the case and the cardinal principle out lined by the Hon'ble Supreme Court in **Sumita Singh and Rajani Kishor Pardeshi NCV Aishwarya cases**, this Court is of the considered view that present petition deserves to be allowed for the reasons that the present petitioner is a permanent resident of Nurpur and the respondent has filed

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proceedings for grant of divorce at Chamba, which is at a distance of more than 200 kilometers.

17. Similar issue praying for the transfer of proceedings from one Court to another Court, has been dealt with by this Court in **CMPMO No. 466 of 2020,** titled **Monu vs. Rakesh Kumar** dated 26.07.2020 and other matters i.e. **CMPMO No. 604 of 2023,** titled **Manisha Thakur vs. Aakash Chauhan,** decided on 05.12.2023 and in **CMPMO No. 688 of 2023,** titled **Sumita Chandel Vs. Parvesh Singh** dated 10.01.2024 in the following manner:-

> *" 6. In view of the mandate of law referred to above, and the no objection accorded by the learned counsel for the respondent herein; the present petition is allowed and H.M. Misc. Petition No. 351 of 2023, titled as Parvesh 5 Singh Vs Sumiti Chandel, pending before the Additional Principal Judge Family Court Hamirpur, Himachal Pradesh is ordered to be transferred to the Principal Judge, Family Court, Solan, Himachal Pradesh."*

18. In the matter having similar facts and situation, this Court has allowed the transfer of the proceedings on the request of the wife in **CMPMO No. 706/2023, titled as Chandni Versus Rajeev Pathik, decided on 04.11.2024**.

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19. In view of the above discussion and the exposition of law as laid down by the Hon'ble Apex Court, the present petition is allowed and the proceedings pending in case HMA No. 90/2026, as presented by the respondent under Section 13 (1)(ia) of the Hindu Marriage Act in the Court of learned Additional Principal Judge, Family Court, Chamba, District Chamba, are ordered to be transferred to the Court of learned Additional Principal Judge, Family Court, Nurpur, District Kangra.

20. The parties shall appear before the Family Court, Nurpur, on **19th August, 2026**. It is made clear that the learned Family Court, Nurpur, shall proceed in the matter from the stage learned Family Court at Chamba was dealing with the case.

21. Consequently, the present petition is allowed and disposed of. Pending application(s), if any, also stand disposed of.

(Romesh Verma)
Judge

29th July, 2026
(Guleria)

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