

(2021) 12 J&K CK 0008

In the Jammu And Kashmir High Court

Case No : Transfer Application (Civil) No. 20 Of 2021, Civil Miscellaneous No. 1900 Of 2021

Syeda Saba Fatima And Ors

APPELLANT

Vs

Syed Tahir Naqaash

RESPONDENT

Date of Decision : 02-12-2021

Acts Referred:

Indian Penal Code, 1860 — Section 109, 498A

Citation : (2021) 12 J&K CK 0008

Hon'ble Judges : Puneet Gupta, J

Bench : Single Bench

Advocate : M.A Bhat, Muzaffar Iqbal Khan

Judgement

Puneet Gupta, J

1. The petitioners herein seek transfer of the case filed for restitution of conjugal rights by the respondent and pending before the Court of learned Sub Judge (Chief Judicial Magistrate), Poonch to any other Court of competent jurisdiction in Jammu District on the ground that the petitioners are the residents of Kargil Colony, Narwal Bala Jammu; that the petitioner No. 1 is a student pursuing her studies at Delhi and is now required to join the physical classes at Delhi; that the petitioner No. 3 is a chronic diabetic patient and further that the petitioners are under serious threat from the respondent and his relatives. The respondent is a police personnel and is presently posted in IRP 7th Batallion Amb-Grota, Jammu is also stated in the petitoin.

The petitioners have taken other grounds also in the present application which cannot be adjudicated upon in the present proceedings.

2. The respondent has filed objections to the application stating therein that there is no ground to transfer the case as prayed for by the petitioners in the application. The petitioner No. 2 got registered a frivolous case against the respondent and his family members under Section 498-A and 109 IPC in F.I..R

No. 0006/2020 registered with police station, Women Cell, Jammu. The respondent is residing at Poonch and in case the case is transferred from Poonch to Jammu, the family of the petitioner No. 1 shall not allow any conciliation with the respondent.

3. The main contesting petitioner No. 1 claims to be a student and though stated to be residing at Jammu has mentioned that she is required to go to Delhi now for attending her classes. The respondent is also presently posted at Jammu is not specifically denied by the respondent in his objections. It will be convenient for the petitioner to attend her case at Jammu instead at Poonch in the present circumstances. The petitioner No. 1 will be required to further cover the distance of about 240 kms from Jammu to Poonch as and when she has to come from Delhi to attend the case. The convenience of petitioners, particularly, petitioner No. 1 in the present case takes precedence over the comfort of the respondent who is in police force.

4. The Court finds sufficient grounds for allowing the application. The case is, accordingly, transferred from the Court of learned Sub Judge (Chief Judicial Magistrate), Poonch to the Court of learned Sub-Judge, Jammu. The record of the case shall be sent by the Court of learned Sub Judge (CJM) Poonch to the transferee Court by or before the next date of hearing.

5. Learned counsel for the parties are directed to appear before the transferee Court on 07.01.2022.