



IN THE HIGH COURT OF ORISSA, CUTTACK

TRP(C) No.383 of 2023

Susmita Sahoo Petitioner

-Versus-

Sanatan Sathua Opposite Party

For Petitioner : Mr.K.R. Satapathy, Advocate

For Opposite Party : Mr. J. Behera, Advocate

CORAM: JUSTICE SANJAY KUMAR MISHRA

Date of Hearing & Judgment: 17.04.2026

S.K. MISHRA, J.

1. Learned Counsel for the Parties are present.
2. Pursuant to order dated 15.02.2024 passed by the Coordinate Bench, the learned Secretary DLSA, Sundergarh has reported vide Letter No.196 dated 13.02.2024 (at Flag 'B') that the mediation failed. The learned Judge, Family Court, Nayagarh vide Letter No.229 dated 06.04.2026 has reported that CP No.134 of 2023 is posted to today, i.e., 17.04.2026, for further order upon hearing on an



application filed Under Order-9, Rule-7 of CPC, as the Respondent has not yet been filed her written statement.

3. However, as the mediation has failed and CP No.134/2023 is still pending for disposal, on consent of the learned Counsel for the parties, the transfer petition is taken up for hearing and disposal at the stage of admission.

4. The present transfer petition has been preferred by the Petitioner-wife seeking transfer of the proceeding in CP No.134 of 2023 pending in the Court of learned Judge, Family Court, Nagyagarh to the Court of learned Judge, Family Court, Rourkela on the grounds detailed in the transfer petition.

5. Reiterating the grounds urged in the transfer petition, Mr. Satapathy, learned Counsel for the Petitioner, who appears through virtual mode, submits that after her desertion, the Petitioner is now residing in a rented house at Rourkela along with her minor child and her old ailing parents. After her desertion, she as well as her minor child are dependent on her parents for their livelihood.

6. He further submits that the Petitioner has a life threat if she is compelled to appear before the learned



Judge, Family Court, Nayagarh as on 05.07.2023, at about 8.30 P.M., the Opposite Party, along with his father and three brothers, came to the parental house of the Petitioner and assaulted her so also her brother and parents with an iron rod and forcibly took away the minor child. Hence an FIR was lodged before the Rajgangpur Police Station being PS Case No.312 of 2023 and by the help of police, the minor child was recovered and was returned to the Petitioner.

7. Learned Counsel for the Petitioner further submits, she as well as her minor child are totally dependent on her old aged parents. The Opposite Party has not paid a single penny to the Petitioner and even not bothered to know how the Petitioner and her son are surviving without any income. Being a deserted lady with a minor child, it would be difficult on her part to travel a distance of about 350 kms from Rourkela to Nayagarh along with her minor child, who was around one and half years old at the time of preferring the present transfer petition.

8. The Petitioner is solely dependent on the income of her retired old father, who is stationed at Rourkela and has no independent source of income. That apart, it would not



be possible for her to attend the day-to-day proceedings at Nayagarh by leaving her child alone at Rourkela, as the baby is on breast feeding.

10. That apart, the child is not in good health and requires personal attention from her mother every time. As such, it would not be possible for the Petitioner to attend the case at Nayagarh by leaving the child alone with her old ailing parents. That part, she is also apprehending danger to her life because of the past conduct of the Opposite Party so also his family members , who threatened to kill her and take away the child from her.

11. Though it is not pleaded in the transfer petition, learned Counsel for the Petitioner, on instruction, submits that the Petitioner has filed DV Misc Case No.58 of 2023 before the learned J.M.F.C., Rajgangpur under the Domestic Violence Act. Despite notice, the Opposite Party avoided to appear in the said case, for which the learned J.M.F.C., Rajgangpur has ordered to pay an amount of Rs. 10,000/- towards interim maintenance. Due to non-compliance of the said order passed by the learned J.M.F.C., Rajgangpur, DW followed by NBW have been issued against the Opposite



Party. Still he is avoiding to appear before the said Court and honour the order passed by the learned J.M.F.C., Rajgangpur.

12. Per contra, though no objection has been filed opposing to such prayer for transfer, learned Counsel for the Opposite Party submits, as per the instruction received, during pendency of the present transfer petition, both the Petitioner and Opposite Party were lived together for a short period. Thereafter again they have been separated and the allegation regarding the life threat is totally false.

13. He further submits, if the Petitioner feels that she has a life threat while appearing before the learned Judge, Family Court, Nayagarh she may approach the learned Court below to allow her to appear through virtual mode.

14. Learned Counsel for the Opposite Party submits, since the Opposite Party is at present working at JNT (Gems and Jewellers) Pvt. Ltd. Khandagiri, Bhubaneswar, it would be difficult on his part to attend the day to day proceedings at Rourkela on each and every date by travelling such a long distance.



15. Law is well settled that while considering application for transfer of matrimonial proceedings, convenience of wife must be looked at. In the case of **(N.C. V. Aishwarya Vs. A.S. Saravana Karthik Sha)**, reported in 2022 SCC Online SC 1199, the Supreme Court held as follow:

*“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 behavioral 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 socio-economic paradigm in the Indian society, generally, it is the wife’s convenience which must be looked at while considering transfer.**”*

(Emphasis supplied)

16. Taking note of the submissions made by the learned Counsel for the Petitioner so also the settled position of law, this Court is inclined to allow the prayer made in the transfer petition for transfer of proceeding in CP No.134 of 2023, pending in the Court of learned Judge, Family Court,



Nayagarh to the Court of learned Judge, Family Court, Rourkela.

17. Accordingly, the learned Judge, Family Court, Nayagarh is directed to transmit the case record in CP No.134 of 2023 to the Court of learned Judge, Family Court, Rourkela at the earliest, preferably within a period of seven days from the date of production of certified copy of this Judgment.

18. On receiving the case record in CP No.134 of 2023 from the learned Judge, Family Court, Nayagarh, the Court of learned Judge, Family Court, Rourkela shall re-register the said case, if so required, and proceed further in accordance with law giving due opportunity to both the parties and shall try to conclude the said proceeding at the earliest, preferably within a period of six months from the date of receipt of case record in CP No.134 of 2023.

19. It is made clear that both the parties will be at liberty to appear before the Court of learned Judge, Family Court, Rourkela through virtual mode, with due permission of the concerned Court, in case they face any difficulty on any date to appear physically before the said Court. The



learned Judge, Family Court, Rourkela is requested to explore the facility of video conferencing available in the said Court and allow the parties to appear through video conferencing mode following the guidelines 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 and other purposes, for which their presence may be required by the Court and if it is so ordered, the parties so also their witnesses, if any, shall remain physically present before the learned Judge, Family Court, Rourkela.

20. To avoid delay and notice, both the parties are directed to make a query themselves or through their Counsel from the Court of learned Judge, Family Court, Rourkela to ascertain the date and purpose of posting of CP No.134 of 2023 and participate in the said proceeding.

21. Since the CP is of the year 2023, both the parties are directed not to seek for unnecessary adjournments and cooperate with the learned Judge, Family Court, Rourkela for early disposal of CP.No. 134 of 2023.



22. With the said observation and direction, the transfer petition stands allowed and disposed of.

23. Office is directed to communicate a copy of this Judgment to the Court of learned Judge, Family Court, Nayagarh so also the Court of learned Judge, Family Court, Rourkela enabling the said Courts to act in terms of the observations made above.

24. Interim order dated 08.01.2024 passed in I.A. No.395 of 2023 stands vacated.

25. Urgent certified copy of this Judgment be granted on proper application as per rules.

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S.K. Mishra, J.

*Orissa High Court, Cuttack.
Dated, 17th April, 2026/ Mona*