



2020 INSC 569

**IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION**

TRANSFER PETITION (CIVIL) NO.455 OF 2020

NEETU YADAV ...PETITIONER(S)

Versus

SACHIN YADAV ...RESPONDENT(S)

ORDER

1. The wife has come up with the above petition seeking transfer of a divorce petition bearing H.M.A. No.3200 of 2019 titled as “**Sachin Yadav Vs. Neetu Yadav**” filed by the respondent-husband on the file of the Principal Judge, Family Court, South West, Dwarka Courts, New Delhi, to the Court of the Principal Judge, Family Court, Indore, Madhya Pradesh.

2. Heard learned counsel on both sides.

3. The marriage of the petitioner with the respondent was solemnized on 21.02.2008 at Indore, Madhya Pradesh. Two children, a girl and a boy, were born in the wedlock. While the girl is now aged about 11 years, the boy is aged about 8 years.

4. Admittedly, the respondent-husband filed a petition for dissolution of marriage on the ground of cruelty in H.M.A case No.3200 of 2019 on the file of the Principal Judge, Family Court, South West, Dwarka Courts, New Delhi. The wife seeks transfer of the said petition to the Court of the Principal Judge, Family Court, Indore, Madhya Pradesh primarily on the ground that she and her two children are entirely dependent on her old and ailing parents and that it would be impossible for her to travel a distance of 800 kms. to attend to the hearing of the case in New Delhi.

5. The respondent has filed a counter affidavit contending *inter alia* that the petitioner is a Post Graduate; that the entire family of the petitioner is “*influentially associated with the judicial structure of Madhya Pradesh*”; that the

petitioner's mother retired from a senior Administrative position from the District judiciary; that the petitioner's mother has very good family relations with the judicial officers who worked in the district; that the petitioner's mother is still closely associated with the "*Unionised Cadre of District Court and their Cooperative Societies*"; that several officials of the Indore Court used to visit her home for each and every small function in their family; that due to the managerial skill of the petitioner's mother and her influence, the petitioner managed to have the first notice in the divorce petition returned unserved; that the petitioner's brother is a distinguished lawyer practising in the High Court of Madhya Pradesh and the Subordinate Courts for more than twelve years; that the petitioner's brother has friendly relationship with the judicial officers of the District Court, as can be evident from his Facebook page; that the petitioner's brother is an associate of one Mr. Sunil Choudhary who was the President of the District Bar Association, Indore: that he is politically well connected and has connection with the

sitting member of the Parliament who was also a Judicial Officer (retired); that the petitioner's brother is an active member of the Indore Bar Association and is a close friend of many leaders of the Bar; that the petitioner's younger brother is working in the Information Technology Department, Indore Bench of the High Court of Madhya Pradesh and that, therefore, it is not possible for the respondent to get justice through free and fair hearing. The respondent-husband has stated that the petitioner is capable of travelling alone to Delhi and that he is also prepared to bear the expenses of her travel.

6. I have carefully considered the rival submissions.

7. It is not the case of the respondent that the petitioner is gainfully employed. The claim of the petitioner that she is now staying with her parents is not disputed by the respondent. That both the children are staying with the petitioner is also not disputed. The elder child is a girl aged about 11 years and whenever the case is fixed for hearing, the petitioner has to travel about 800 kms.

8. The respondent is working as Vigilance Officer in the Airport Authority of India. He is currently posted in Delhi. The fact that the marriage was solemnized at Indore is borne out by the pleadings in the Divorce Petition filed by the respondent. As per the averments contained in the Divorce Petition, the couple lived at Indore till July-2020. Thereafter the couple lived in Delhi for some time.

9. The only reason why the respondent has chosen to file the Divorce Petition at Dwarka is that he is now posted in New Delhi and that the couple last resided together at New Delhi.

10. Keeping the above mentioned admitted facts in mind, if we look at the counter affidavit filed by the respondent, it is seen that the request for transfer is contested mainly on the ground that the petitioner's mother is a retired employee of the District Court and that the petitioner's elder brother is a practicing advocate and the younger brother is working in the I.T. department of the Indore Bench of the Madhya Pradesh High Court and that they wield enormous influence.

11. To prove his contention regarding the status of the petitioner's family and the influence that they allegedly have, the respondent has filed print outs of a few pages from the Facebook account of the petitioner's brother. While one of those print outs has photographs taken on the occasion of a cricket tournament held under the aegis of Indore Bar Association and another print out relates to the greetings extended to the Ex-President of Indore Bar Association, the print outs of all other Facebook pages contain nothing other than the photographs of the petitioner's brother with comments revolving around some joyous occasions.

12. I do not know how the pictures taken on the occasion of a cricket tournament conducted by a Bar Association and witnessed by a few judicial officers can be an indication of the influence exerted by the petitioner's family on the entire district judiciary, merely because the judicial officers and Advocates have stood shoulder to shoulder on that occasion. It was not a private event but an event open to all lawyers of the District Bar. The fact that the petitioner's brother who is

a lawyer, has a Facebook page and that the same has lot of followers and that it attracts a lot of comments and likes cannot be the basis to conclude that the petitioner's brother is very influential with the local judiciary.

13. I am not convinced that there is any real likelihood of bias. Out of the seven print outs of the Facebook pages of the petitioner's brother, filed by respondent as Annexures R/1, R/2 and R/3 (colly), only one contains the photographs of a few persons who had participated in the cricket competition conducted by Indore Bar Association. On the basis of this, it is not appropriate to come to the conclusion that the respondent will not receive a fair treatment at the hands of the Family Court.

14. Therefore, I deem it fit and proper to allow the transfer petition. Accordingly, the Divorce Petition H.M.A. No.3200 of 2019 titled as "Sachin Yadav Vs. Neetu Yadav", pending before the Principal Judge, Family Court, South West, Dwarka Courts, New Delhi is transferred to the Court of the Principal Judge, Family Court, Indore, Madhya Pradesh.

15. Let the records of the case be transferred to the concerned court, without delay.

16. The Transfer Petition is, accordingly, allowed.

.....**J.**
(V. Ramasubramanian)

NEW DELHI
SEPTEMBER 30, 2020