

SUPREME COURT OF INDIA

(1) Arun Aggarwal; (2) Reetam Aggrawal

Vs.

(1) Reetam Aggarwal; (2) Arun Aggarwal

(R. C. Lahoti and Ashok Bhan JJ.)

26.04.2004

ORDER

:This order shall dispose of Transfer Petition(Crl.) No. 311 of 2003 filed at the instance of Shri Arun Aggarwal (husband) seeking transfer of case No. 183/11 of 2002 titled Reetam Aggarwal vs. Arun Aggarwal under Section 125 Cr.P.C., claiming maintenance, pending in the Court of Magistrate I, Muzaffar Nagar, to a Court of competent jurisdiction at Chandigarh and Transfer Petition (Civil) Nos. 3-4 of 2004 at the instance of Smt. Reetam Aggarwal (wife) for transfer of the Divorce Petition No. 54 of 2001 titled Arun Aggrawal vs. Reetam Aggrawal under Section 13 of the Hindu Marriage Act, 1955 filed by the husband in the Court of Additional District Judge, Chandigarh and an allied petition No. Nil/2003 titled Arun Aggawal Vs. Reetam Aggrawal under Sections 7 & 8 of the Guardians and Wards Act, 1890 in the Court of Senior Sub-Judge, Chandigarh to the Family Court at District Muzaffar Nagar, U.P..

Marriage between the parties was solemnised on 20.1.1995 at Chandigarh according to Hindu rites and customs. Prior to the marriage Smt. Reetam Aggrawal did her graduation from Government College for Girls, Sector 11, Chandigarh. Thereafter, she did her Post Graduation from Punjab University, Sector 14, Chandigarh. During this period she stayed with her sister Smt. Vibha Aggarwal at Chandigarh. After marriage the parties resided at House No. 76, Sector 16, Chandigarh. From this wed-lock a female child was born on 23.9.1998.

According to the husband, the wife deserted him on 24.1.1999 and in spite of his efforts she did not agree to rejoin him at the matrimonial home. Having failed in persuading his wife to come and reside with him at the matrimonial home, he filed a divorce petition No. 54 of 2001 at Chandigarh. He also filed an allied petition No. Nil/2003 for custody of his minor child. As a counter blast, Smt. Reetam Aggrawal filed a petition under Section 125 Cr.P.C. for maintenance.

It has also been alleged that earlier Smt. Reetam Aggrawal filed Transfer Petition) No. 124 of 2002 in this Court seeking transfer of matrimonial proceedings pending in the Court of Additional District Judge, Chandigarh, Union Territory to Muzaffarnagar in the State of Uttar Pradesh, which was dismissed by this Court on 17.1.2003 on the ground that she was residing at Chandigarh and was doing B.Ed. course in a college at Chandigarh.

Smt. Reetam Aggrawal in reply affidavit has denied the allegations made in the petition. She has pleaded that she is the permanent resident of Khatauli, District Muzaffarnagar, U.P. Her parents are living at Khatauli. As her prayer for transfer of the case pending at Chandigarh was rejected she kept on living at Chandigarh; she was now teaching in an orphanage (Gurukul) at Panchkula without any remuneration or allowance in any form whatsoever, she wants to return to Khatauli and live with her parents, as she does not want to be burden on her parents any longer and was trying to get some employment in Khatauli or near about. It is asserted by her that her earlier transfer petition was dismissed only on the ground that she was undergoing the B.Ed. course at Chandigarh. Now since she has completed her studies she wants to return to Khatauli and live with her parents. Allegation that she had deserted her husband has been denied. According to her she was turned out from her matrimonial home.

Heard learned counsel for the parties.

Dismissal of earlier Transfer Petition (C) No. 124 of 2002 filed by the wife for transfer of matrimonial proceedings pending in the Court of Additional District Judge, Chandigarh, Union Territory to Muzaffarnagar in the State of Uttar Pradesh would have no bearing as the same was dismissed on the ground that she was undergoing her B.Ed. course of study at Chandigarh. She has completed her studies and she is not gainfully employed at Chandigarh. Staying at Chandigarh only to pursue the matrimonial cases pending at Chandigarh may be expensive # . She intends to shift to Muzaffarnagar. It would be appropriate and in the interest of justice to transfer both the above-mentioned cases to a Court of competent jurisdiction at Muzaffarnagar, U.P..

Accordingly, without going into the allegations and counter allegations made by the parties and keeping in view the facts and circumstances of the case and in the interest of justice transfer petitions filed by the wife are allowed. It is directed that the Divorce Petition No. 54 of 2001 titled Arun Aggrawal vs. Reetam Aggrawal under Section 13 of the Hindu Marriage Act, 1955 filed by the husband in the Court of Additional District Judge, Chandigarh and the allied petition No. Nil/2003 titled Arun Aggrawal vs. Reetam Aggrawal under Sections 7 & 8 of the Guardians and Wards Act, 1890 in the Court of Senior Sub-Judge, Chandigarh shall stand transferred to the Court of District & Sessions Judge, Muzaffarnagar, U.P.

The Courts at Chandigarh are directed to transfer the record of the above-referred two cases to the Court of District & Sessions Judge, Muzaffarnagar, U.P. who may on receipt of the record assign the above-referred two cases to the appropriate Court of competent jurisdiction. Accordingly, the Transfer Petition (C) Nos. 3-4 of 2004 are allowed and disposed of in the above terms.

In view of the above order passed by us in Transfer Petition (C) Nos. 3-4 of 2004 filed by Smt. Reetam Aggrawal, we do not find any merit in Transfer Petition (Crl.). No. 311 of 2003 filed by Shri Arun Aggarwal and is dismissed. Nothing stated hereinabove be taken as expression of opinion on the merits of pleas of either party sub-judice before the trial courts. The Court trying the petitions shall dispose of the petitions without being influenced by any of the observation in this order. No order as to costs.