



IN THE HIGH COURT OF ORISSA, CUTTACK

TRP(C) No.449 of 2025

CNR No.ODHC010905192025

Tapaswini Mohanty *Petitioner*

-Versus-

Jayanta Kumar Mohanty *Opposite Party*

Advocate for the parties

***For Petitioner : Mr. Kuldeep Mohanty,
Advocate***

***For Opposite Party : Mr. Amit Prasad Bose,
Advocate***

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CORAM: JUSTICE SANJAY KUMAR MISHRA

Date of Hearing: 09.09.2026

Date of Judgment: 17.09.2026

S.K. MISHRA, J.

1. The Petitioner-wife has preferred the present transfer petition under Section 24 of the C.P.C. for transfer of proceeding in C.P. No.408 of 2024, preferred by the present Opposite Party-husband under Section 13 of the Hindu Marriage Act, 1955 for a decree of divorce, pending before the



learned Judge, Family Court, Bhadrak to the Court of learned Judge, Family Court, Balasore on the grounds detailed in the transfer petition.

2. Being noticed, the Opposite Party-husband has appeared and filed an objection, opposing to the prayer for transfer.

3. Since pleadings are complete, 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. Heard learned Counsel for the parties.

5. Reiterating the grounds urged in the transfer petition, learned Counsel for the Petitioner submitted that the Petitioner-wife is a deserted lady. Having no source of income, she is staying with her parents. She is having two male children, who are around 17 years and 14 years old. After her desertion, she has returned to her parental house and is staying with her younger son and both of them are fully dependent on her father and are living a very miserable life because of the financial constraints. Rather, on the other hand, the Opposite Party-husband is a financial affluent



person, who is at present working in a company. Though the Petitioner-wife was noticed by the learned Judge, Family Court, Bhadrak on 14.11.2024 in C.P. No.408 of 2024, which was made sufficient on 06.12.2024, due to death of her Counsel, she could not appeared in the said C.P., for which, she was set ex-parte on 10.01.2025. Subsequently, on 27.01.2025, the Petitioner-wife appeared and filed an application for setting aside the ex-parte order dated 10.01.2025 and on 21.03.2025, the ex-parte order was set aside. That apart, though the Opposite Party-husband is a retired army personnel, having sound income from service and pension, so also from other sources, he is not paying a single pie for maintenance of Petitioner-wife as well as the younger son. The Petitioner is a house-wife and she as well as her younger son, being totally dependent on her father, it has become difficult on the part of her father to maintain both of them so also bear the litigation expenses. Accordingly, the Petitioner-wife, finding no other way, instituted a proceeding under Section 12 of the Protection of Women from Domestic Violence Act, 2005, shortly, 'D.V. Act', before the learned



J.M.F.C, Soro, which has been registered as D.V. Case No.278 of 2023, seeking monthly maintenance from the present Opposite Party-husband. Being summoned in the said D.V. Case, the Opposite Party-husband has appeared and filed his written statement. The Petitioner-wife also filed an interim application vide I.A. No.48 of 2025 in C.P. No.408 of 2024 before the learned Judge, Family Court, Bhadrak seeking *pendent lite* maintenance under Section 24 of the Hindu Marriage Act, 1955. The learned Court below, though vide order dated 18.08.2025, ordered to pay a monthly maintenance of Rs.5,000/- (rupees five thousand) till disposal of the trial and one-time litigation expenses of Rs.8,000/- (rupees eight thousand) to the Petitioner-wife, the Opposite Party on 09.09.2025 has paid Rs.13,000/- (rupees thirteen thousand) only to the Petitioner-wife. After that, not a single pie was paid to the Petitioner-wife by the Opposite Party-husband. That apart, the Petitioner-wife, being a destitute lady, having no income, has filed an application under Section 125 Cr. P.C. before the learned Judge, Family Court, Balasore for maintenance, which has been registered as CRP No.202 of



2025, which is pending for consideration. Though the Opposite Party-husband is well aware about the fact that the Petitioner-wife, after her desertion, is staying at her parental house situated at Balasore, he has instituted C.P. No.408 of 2024 before the learned Judge, Family Court, Bhadrak with an intention to harass the Petitioner-wife. Further, the distance from the parental house of the Petitioner to the Court at Bhadrak would be around 60 K.Ms. She being a destitute lady, having no income and except her old father, there being no male member in the family to accompany her, it would be difficult on her part to travel such a long distance to attend the day-to-day proceeding at Bhadrak along with her minor child. That apart, two other proceedings at her instance are pending at Soro as well as Balasore. Learned Counsel for the Petitioner-wife further submitted that as per the settled position of law, paramount consideration for transfer of the matrimonial proceedings is the convenience of the wife. Accordingly, learned Counsel for the Petitioner prays for transfer of proceeding in C.P. No.408 of 2024 from Bhadrak to Balasore.



6. Per contra, relying on the reply affidavit filed in the present proceeding, learned Counsel for the Opposite Party-husband submitted that, the learned Judge, Family Court, Bhadrak, by order dated 18.08.2025 passed in I.A. No.48 of 2025 (arising out of C.P. No.408 of 2024), though allowed the monthly maintenance of Rs.5,000/- to the Petitioner-wife till conclusion of the trial and one time litigation expenses of Rs.8,000/-, pursuant to said order the Opposite Party-husband paid Rs.13,000/- to the Petitioner-wife on 09.09.2025. Since then, the Petitioner-wife is neither attending the Court of learned Judge, Family Court, Bhadrak nor co-operating with the said Court for early disposal of C.P. No.408 of 2024 and only haziras and time petition are being filed by her Counsel, to drag the litigation.

7. Learned Counsel for the Opposite Party-husband further submitted that, the Petitioner-wife filed D.V. Case No.278 of 2023, under Section 12 of the PWDV Act, 2005 before the learned J.M.F.C., Soro seeking monthly maintenance from the Opposite Party, as she is presently residing at village Patimunda, whereas she also filed CRP



No.202 of 2025 under Section 125 Cr.P.C. before the learned Judge, Family Court, Balasore seeking for maintenance for herself as well as for her child. Learned Counsel for the Opposite Party-husband further submitted that, the distance from Bhadrak to Soro would be around 36 K.Ms, whereas the distance from Soro to Balasore is also around 36 K.Ms. Hence, it would not be difficult for the Petitioner-wife to travel from Soro to Bhadrak. Rather, the distance from Bhadrak to Balasore being 71 K.M.s, it would be difficult on the part of the Opposite Party-husband to travel such a long distance to attend the day-to-day proceeding at Balasore. He further submitted that, the Petitioner-wife is financially sound as she is earning a substantial amount from her independent source of income by giving home tuition, which is denied by the learned Counsel for the Petitioner-wife. That apart, there is no threat to the life of the Petitioner-wife, if she attends the proceedings at Bhadrak. Further, though the Opposite Party-husband, who is the Petitioner in C.P. No.408 of 2024, has filed his affidavit evidence as P.W.1, but he is yet to be cross-examined by the Petitioner-wife, as she is not cooperating



with the Court below in the said proceeding, only with an intention to harass the Opposite Party-husband.

8. So far as distance plea taken in the transfer petition, to substantiate his submission, learned Counsel for the Opposite Party-husband, relied on the recent order passed by the coordinate Bench dated 12.01.2026 in TRP(C) No.285 of 2025 (**Chinmayee Behera Vs. Binod Kumar Jena**). So far as appearance through virtual mode, learned Counsel for the Opposite Party relied on the judgment dated 18.08.2026 passed by this Court in TRP(C) No.51 of 2025 (**Namrata Samal Vs. Sanjit Kumar Pradhan**). Accordingly, learned Counsel for the Opposite Party-husband prayed for dismissal of the present transfer petition.

9. To counter the allegations made by learned Counsel for the Opposite Party, learned Counsel for the Petitioner further submitted that the maternal native place of the Petitioner-wife is village-Patimunda, which is around 2 K.Ms away from Soro. Hence, she has rightly filed D.V. Misc. Case No.278 of 2023 before the learned J.M.F.C., Soro. So far as the maintenance under Section 125 Cr.P.C., since Village-



Patimunda, P.S.-Soro, Dist-Balasore comes under the territorial jurisdiction of learned Judge, Family Court, Balasore, she has rightly preferred CRP No.202 of 2025 before said Court. That apart, since the Opposite Party-husband is appearing in CRP No.202 of 2025 at Balasore, being financially affluent, if the proceeding in C.P. No.408 of 2024 is also transferred to the same Court, both the proceedings can be taken up simultaneously by posting the cases to a single date, which would be convenient for both the parties.

10. It may not be out of place to mention here that since there was an allegation of non-payment of interim maintenance, as per the order passed in I.A. No.48 of 2025 (arising out of C.P. No.408 of 2024) and counter allegation regarding non-receipt of the said maintenance awarded by the learned Court below, on being directed by this Court vide order dated 18.08.2026, learned Counsel for the Opposite Party-husband on 25.08.2026, handed over a cheque dated 22.08.2026 for an amount of Rs.35,000/- (rupees thirty five thousand), drawn in the name of the Petitioner-wife, to the



learned Counsel for the Petitioner-wife towards up-to-date maintenance.

11. Having regard to the pleadings, the rival submissions and the materials placed on record, the following points arise for consideration:

- I.** Whether the Petitioner-wife has established sufficient and bona fide *hardship* so as to warrant transfer of C.P. No.408 of 2024 from Bhadrak to Balasore in the interest of justice?
- II.** Whether the hardship of either party can be adequately addressed by *alternative safeguards* such as *virtual appearance*, *exemption from personal appearance*, or other directions, and, if not, what order would best to secure the ends of justice?

12. Law is well settled that the power under Section 24 of the CPC is to be exercised when the ends of justice so demand. In matrimonial matters, while the convenience of the wife is an important consideration, the Court is required to examine the facts of each case and balance the comparative hardship of both parties. In **N.C.V. Aishwarya v. A.S.**



Saravana Karthik Sha, reported in 2022 SCC OnLine SC

1199, the Supreme Court held as follows:

*“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)

13. In the considered opinion of this Court, the decision in **Chinmayee Behera** (supra), relied upon by the learned Counsel for the Opposite-Party, does not alter the above conclusion, since the said decision was rendered on the particular factual circumstances of the said case. In the present case, the hardship pleaded by the Petitioner-wife is supported by the distance involved, her financial circumstances, her residence with aged and ailing parents, the responsibility towards her minor son and the pendency of the connected maintenance proceeding at Balasore, in which case the Opposite-Party husband has appeared and



contesting the case at Balasore. On a cumulative consideration of these circumstances, the balance of convenience and the ends of justice favour transfer of the matrimonial proceeding to Balasore.

14. Having regard to the difficulty of distance, which the Opposite Party-husband is likely to face, the learned Judge, Family Court, Balasore shall, subject to the applicable rules and orders of the Court, consider permitting him to appear through virtual mode and shall not insist upon his physical presence, except where such presence is considered necessary for the effective adjudication of the proceeding.

15. All the points, detailed above, are answered accordingly.

16. Accordingly, the learned Judge, Family Court, Bhadrak is directed to transmit the case record in C.P No.408 of 2024 to the Court of learned Judge, Family Court, Balasore at the earliest, preferably within a period of one week from the date of production of certified copy of this judgment.

17. On receiving the case record in C.P No.408 of 2024 from the Court of learned Judge, Family Court, Bhadrak, the



Court of learned Judge, Family Court, Balasore shall re-register the said case, if so required, so also post the said proceeding to the same date as of CRP No.202 of 2025 and proceed further in accordance with law, by posting both the cases simultaneously to a single date.

18. Since the Opposite Party is a resident of Bhadrak and basically has taken a stand of distance from Bhadrak to Balasore to oppose the prayer for transfer, both the parties are permitted to appear through virtual mode, if they face any difficulty to appear physically before the learned Judge, Family Court, Balasore.

19. Accordingly, the Court of learned Judge, Family Court, Balasore is requested to explore the facilities of Video Conferencing available in the said Court and permit the parties to appear before him through virtual mode, following due procedure, as prescribed under the Orissa High Court Video Conferencing for Courts Rules, 2020, if so prayed by any of the parties. 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 below and if it is so ordered, the parties shall remain physically present before the Court of learned Judge, Family Court, Balasore.

20. To avoid delay and notice, the parties are directed to make a query themselves or through their Counsel regarding the date and purpose of posting of C.P No.408 of 2024 and attend the Court of learned Judge, Family Court, Balasore.

21. Both the parties are further directed not to seek for unnecessary adjournments and cooperate with the Court of learned Judge, Family Court, Balasore, who shall do well to conclude both the proceedings in C.P No.408 of 2024 and CRP No.202 of 2025 at the earliest, preferably by the end of March, 2027.

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, Bhadrak so also the Court of learned Judge, Family Court, Balasore for compliance.



24. Interim order dated 24.12.2025 passed in I.A. No.477 of 2025 stands vacated. Accordingly, the I.A. also stands disposed of.

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 September, 2026/Kanhu*

Signature Not Verified
Digitally Signed
Signed by: KANHU BEHERA
Designation: JUNIOR STENOGRAPHER
Reason: Authentication
Location: High Court of Orissa, Cuttack.
Date: 17-Sep-2026 18:34:31