

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. MMO No. 811 of 2025.

Reserved on: 11.11.2025.

Date of Decision: 28.11.2025.

Aditi Gupta and another ...Petitioners

Versus

Akash Garg ...Respondent

Coram

Hon'ble Mr Justice Rakesh Kainthla, Judge.

Whether approved for reporting?¹ No.

For the Petitioners : Mr Rajiv Rai, Advocate.

For Respondent : None.

Rakesh Kainthla, Judge

The petitioners have filed the present petition for seeking transfer of the maintenance proceedings under Section 125 of Cr.P.C., titled Aditi Gupta and another vs Akash Garg, pending before learned Principal Judge (Family Court), Shimla, to learned Family Court at Nahan, District Sirmour, H.P. It was asserted that petitioner No.1 and respondent were married on 26.4.2018 at Village and Post Office Dadahu, District Sirmour, H.P., as per Hindu rites and customs. The relationship between petitioner No.1 and respondent became strained with time, and

¹ Whether reporters of Local Papers may be allowed to see the judgment? Yes.

they stopped residing together. The petitioners initiated maintenance proceedings under Section 125 of Cr.P.C., which was registered as Case No.27 of 2022, titled Aditi Gupta and another vs Akash Garg, along with an application for interim maintenance. The matter is pending before the learned Family Court, Shimla. Petitioner No.1 is employed as a Junior Office Assistant with HPSIDC. She was transferred on 29.4.2023 from Shimla to Nahan, and she would be unable to continue with the proceedings. Hence, the petition.

2. Mr Rajiv Rai, learned counsel for the petitioners, submitted that the petition was originally instituted at Shimla because the petitioners were residing at Shimla. She has been transferred to Nahan, and it is difficult for her to travel to Shimla to pursue the petition filed by her. Therefore, he prayed that the present petition be allowed and the petition be transferred to Nahan. He relied upon the judgments of this Court in *Privika Chandel v. Bhanu Pratap*, CMPMO No. 355 of 2021, decided on 1.8.2023, *Smt. Radha Vs. Guler Singh*, CMPMO No. 309 of 2023, decided on 21.8.2023, *Sapna Devi Kumari Vs. Dr Diwakar*, CMPMO No. 363 of 2023, decided on 2.9.2024 and *Monika Sharma Vs.*

Abhishek Gautam, CMPMO No. 662 of 2024, decided on 16.12.2024
in support of his submission.

3. I have given considerable thought to the submissions made at the bar and have gone through the records carefully.

4. It is undisputed that the petitioner herself filed a petition at Shimla. She claims transfer of the petition to Nahan because of her transfer vide order dated 29.04.2023. First, there is no explanation as to why the petitioner kept waiting for two years before seeking the transfer of the petition. Secondly, the petition has been filed on the grounds of the convenience of the petitioner. It was laid down by the Hon'ble Supreme Court in *Shri Sendhur Agro & Oil Industries v. Kotak Mahindra Bank Ltd.*, 2025 SCC OnLine SC 508 that mere inconvenience or hardship faced by a person from travelling from one place to another is no ground for transfer. It was observed:-

“65. For the purpose of transfer of any case or proceedings under Section 406 of the Cr. P.C., the case must fall within the ambit of the expression “*expedient for the ends of justice*”. Mere inconvenience or hardship that the accused may have to face in travelling from Coimbatore to Chandigarh would not fall within the expression “*expedient for the ends of justice*”. The case must fall within any of the five situations as narrated in para 49 of this judgment. It is always open for the petitioner accused to pray for exemption from personal appearance or request that the

Court that him may be permitted to join the proceedings online.”

5. The judgments in *Privika Chandel (supra)*, *Smt. Radha (supra)* and *Sapna Devi (supra)*, and *Monika Sharma (supra)* are concerned with the transfer of the cases which were instituted by the husband against the wife, and it was held by this Court that the convenience of the wife is to be considered while determining the place of adjudication. In the present case, the petition was not filed by the husband but by the wife; therefore, she chose the place of suing herself. She cannot seek transfer of the petition because of her transfer. It was laid down by the Punjab and Haryana High Court in *xxxx vs xxxx 2024 LiveLaw (PH) 364* that the wife’s petition cannot be transferred on her transfer. It was observed:

“In case if wife in question is employed in a transferable job, she cannot be permitted to seek transfer nay repeated transfer(s) of the matrimonial-related litigation(s) if her job results in her being transferred from one place to another. The latitude required to be exercised in favour of a wife, while dealing with the plea for transfer of a matrimonial dispute, cannot be stretched to such an extent that the Court is approached for transfer of such matrimonial-related litigation at the mere asking of the wife.”

6. Therefore, the petitioner is not entitled to the transfer of the petition filed by her.

7. Hence, the present petition fails, and it is dismissed.
8. The observations made here-in-above are regarding the disposal of the petition and will have no bearing, whatsoever, on the case's merits.

(Rakesh Kainthla)
Judge

28th November, 2025
(Chander)