

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

TRANSFER PETITION (C)No.80 of 2021

SAMINA & ORS.

Versus

... PETITIONERS

SYED ASIM PASHA

... RESPONDENT

WITH

CRIMINAL APPEAL NO.3255 OF 2023
(Arising out of SLP(Cr1.)No.6979 of 2021)

SAMINA & ORS.

Versus

... APPELLANTS

SYED ASIM PASHA

... RESPONDENT

O R D E R

TRANSFER PETITION (C)No.80 of 2021

1. The petitioner - wife seeks transfer of O.S.No.942 of 2019, which is a suit for grant of damages of Rs.20,00,000/- (Rupees twenty lakhs), titled as "Syed Asim Pasha vs. Smt. Samina & Ors.", filed by the respondent, who is the husband of the first petitioner. The above-stated Civil Suit is pending before the Chief Judge, City Civil Court at Hyderabad, Telangana and the petitioner - wife seeks transfer thereof to the Karkardooma Court at Delhi.

2. The marriage between the first petitioner and the respondent was solemnized on 23.04.2015 as per the Muslim Law. There are two daughters born from the wedlock on 06.03.2016 and

09.04.2017 respectively, who are under the care and custody of the petitioner - wife. It is alleged that as soon as the petitioner - wife filed a suit for grant of maintenance of Rs.20,000/- p.m., the respondent - husband has filed the instant suit as a counter-blast. It is not necessary for us to express any opinion on the merits of the case. It would suffice to say that, the continuation of the suit at Hyderabad will lead to extreme hardships for the petitioner No.1 - wife, her minor daughters and other family members.

3. Consequently, the Transfer Petition is allowed and O.S.No.942 of 2019, filed by the respondent, which is pending before the Chief Judge, City Civil Court at Hyderabad, Telangana is ordered to be transferred to the Karkardooma Court at Delhi. The records be forwarded to the Transferee Court forthwith.

4. We are informed that the petitioner - wife has been awarded compensation at the rate of Rs.20,000/- p.m. with a 5% annual increase. It is alleged that the respondent - husband is not paying the maintenance. The Transferee Court is directed to ensure that the monthly maintenance is paid to the petitioner - wife on time, failing which, the Civil Suit shall be dismissed for non-prosecution.

5. As a result, the pending interlocutory application also stands disposed of.

CRIMINAL APPEAL No.3255 OF 2023 @ SLP(Cr1.)No.6979 of 2021

1. Leave granted.

2. The first appellant is the wife of the respondent. Appellant Nos.2 and 3 are their daughters. The grievance of the appellants is against the judgment dated 22.02.2021 passed by the

High Court of Delhi, whereby their Criminal Revision Petition for enhancement of monthly maintenance from Rs.20,000/- p.m. to Rs.60,000/- p.m. has been dismissed. The reasons assigned by the High Court are that the appellants have failed to produce any document to prove the monthly income of the respondent. The first appellant has further, failed to establish, that the respondent is earning any handsome amount. Hence, no case to increase any maintenance is made out.

3. The marriage between the first appellant and the respondent was solemnized on 23.04.2015 as per Muslim Law. There are two daughters born from the wedlock on 06.03.2016 and 09.04.2017 respectively, who are under the care and custody of the petitioner - wife. The respondent is stated to be an engineer having a qualification of M.Sc in Informatics. The appellant - wife and their daughters are living in Delhi. It is an admitted fact that the Family Court, Karkardooma, Delhi, vide the judgment dated 20.02.2020, granted maintenance of Rs.20,000/- p.m. to the appellants with a 5% annual increase. The daughters are currently studying in school. There is nothing on record to suggest that the first appellant has her own independent source of income. It is not believable that, despite having M.Sc in Informatics, the respondent is unemployed and/or is not having a respectable source of livelihood.

4. Be that as it may, the respondent - husband is obligated to provide adequate maintenance to the first appellant and more particularly, to the children, to pursue their academic careers and lead a comfortable life, at least at par with the living standard

which the respondent - husband himself is enjoying.

5. Taking into consideration all the attending circumstances, the monthly maintenance awarded by the Family Court, Karkardooma, Delhi is increased to Rs.30,000/- p.m. with effect from 01.10.2023. The appellants shall be entitled to a 10% annual increase on the maintenance amount. In addition to that, the appellants shall also be at liberty to approach the Family Court for suitable revision/enhancement of the monthly maintenance in accordance with law. This order, shall not be an impediment for grant of higher maintenance if the appellants are able to prove that they are entitled to such an enhancement. Ordered accordingly.

6. The appeal stands disposed of in the above terms.

7. As a result, the pending interlocutory applications also stand disposed of.

.....J.
(SURYA KANT)

.....J.
(DIPANKAR DATTA)

NEW DELHI;
OCTOBER 18, 2023.

ITEM NO.1

COURT NO.5

SECTION XII-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Transfer Petition(s)(Civil) No(s).80/2021

SAMINA & ORS.

Petitioner(s)

VERSUS

SYED ASIM PASHA

Respondent(s)

(Final Mediation report awaited.

IA No.8006/2021 - STAY APPLICATION)

WITH

SLP(CrI) No. 6979/2021 (II-C)

(FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES ON IA 115816/2021

IA No. 115817/2021 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT

IA No. 196050/2022 - EXTENSION OF TIME

IA No. 115816/2021 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 18-10-2023 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SURYA KANT

HON'BLE MR. JUSTICE DIPANKAR DATTA

For Petitioner(s) Mr. Mukesh Kumar, Adv.
Mr. Madhup Kumar Tiwari, Adv.
Ms. Neha Rai, Adv.
Mr. Yashaswi Chocksey, Adv.
Mr. Brijesh Kumar, Adv.
Mr. Rajesh Kumar, Adv.
Mr. Krishna Kumar Singh, AOR

Mr. Sravan Kumar Karanam, AOR
Ms. Shireesh Tyagi, Adv.
Mr. P. Santhosh Kumar, Adv.

Mr. Sravan Kumar, Adv.
Mr. Santosh, Adv.
Mr. Hitendra Nath Rath, AOR

For Respondent(s) Mr. Surender Kumar Gupta, AOR
Mr. Chitvan Singhal, Adv.

UPON hearing the counsel the Court made the following

O R D E R**TRANSFER PETITION (C)No.80 of 2021**

The Transfer Petition is allowed in terms of the signed order.

As a result, the pending interlocutory applications also stand disposed of.

CRIMINAL APPEAL No.3255 OF 2023 @ SLP(Cr1.)No.6979 of 2021

Leave granted.

The appeal stands disposed of in terms of the signed order.

As a result, the pending interlocutory applications also stand disposed of.

(SATISH KUMAR YADAV)
DEPUTY REGISTRAR

(PREETHI T.C.)
COURT MASTER (NSH)

(Signed order is placed on the file)