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T.P.(C) No. 249 OF 2001

ITEM No. Chamber matter

Court No.

SECTION XVIA  
A/N MATTER

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

Part-heard:

Transfer Petition.(Civil) No.249/2001

DAVINDER KAUR

Petitioner (s)

VERSUS

MANPREET SINGH AHLUWALIA

Respondent (s)

( With Appln(s). for stay )

Date : 20/11/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE D.P. MOHAPATRA  
HON'BLE MR. JUSTICE SHIVARAJ V. PATIL

For Petitioner (s) Mr.N.C. Kochhar, Sr. Adv.  
Mr. Cham Lal Sachdeva, Adv.  
Mr. Sanjeev Sachdeva, Adv.

For Respondent (s) Ms. Indu Malhotra, Adv.  
Ms. Gurmeet Bindra, Adv.  
Mr. Rajiv Mehta., Adv.

UPON hearing counsel the Court made the following  
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The transfer petition is disposed of. No costs.

(Usha Bhardwaj)  
P.S. to Registrar

(S.Malkani)  
Court Master

Signed order is placed on the file.

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IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

TRANSFER PETITION NO.249/2001@@  
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Smt Davinder Kaur

....Petitioner

versus

Shri Manpreet Singh Ahluwalia

.....Respondent

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Heard learned counsel for the parties.

The petitioner is the wife of the respondent. She has filed this petition under Section 25 of the Code of Civil Procedure praying inter alia for transfer of the Matrimonial Petition H.M.A.No.363/2000 bearing title Mr. Manpreet Singh Ahluwalia vs. Smt. Davinder Kaur pending in the Court of Mr.S.P. Garg, Additional District Judge, Delhi to the Court of the District Judge Bangalore. The case has been registered on the petition filed by the respondent herein seeking divorce from the petitioner herein on the ground of cruelty and desertion. In this petition the petitioner has made various allegations including physical assault and mental torture on her by the respondent and members of his family. The main grounds stated in support of the prayer for transfer of the case are that the petitioner is not gainfully employed and does not have any means to

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support herself and her minor daughter. She resides with her parents at Bangalore and depends upon them for maintenance of herself and her daughter. The respondent has threatened her of physical assault and snatching away the child. In the circumstances, the petitioner contends that it will not be possible on her part to travel to Delhi for appearance in the case and if the case continues in the Court at Delhi she will not be in a position to defend it effectively.

The respondent has denied the allegations of physical assault, ill-treatment and mental torture levelled against him and members of his family. It is his case that he has all along taken proper care of his wife and child as a dutiful husband and he has never shirked his responsibility in that regard. Even now he is ready and willing to take his wife and daughter to the matrimonial home and he will make all provisions for giving them a reasonably comfortable life. It is the allegation of the respondent that the petitioner has been unreasonable in rejecting all attempts for reconciliation made by intervention of relations and family friends and her main purpose appears to be to extract a large sum of money for a consent decree of divorce in the case.

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Concededly the marriage between the parties was held at Delhi and the matrimonial home is at Delhi. The petitioner has been living separately from the respondent since August, 1997. It appears from the record that at one stage in the proceedings a motion was made for grant of a consent decree of divorce. Though the

petitioner personally appeared in the Court when the first motion was made but failed to appear on the date when the second motion was made. It further appears from the record that the respondent has filed a Suit No.9/2000 in the Delhi Court against the petitioner for recovery of a sum of Rs.3,67,920/- which is alleged to have been paid by him to her as a condition for grant of a decree of divorce by consent. Having regard to scope of this petition, we desist from expressing on the merits of rival contentions in other proceedings stated above.

On perusal of the record and on consideration of the arguments made by learned counsel appearing for the parties we are not satisfied that the divorce proceedings pending in the Court at Delhi should be transferred to Bangalore. Since the main ground on which transfer of the case is sought is lack of finance and inconvenience, we asked the counsel for the

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respondent if his client is willing to bear the expenses for petitioner's travel by Air from Bangalore to Delhi and back and make arrangements for her stay at Delhi. On taking instructions from the respondent, learned counsel appearing for him submitted that he has agreed to bear the travelling expenses by Air and also to make arrangement for her stay at Delhi on the dates on which presence of the petitioner is required. Therefore, while declining to grant the prayer for transfer of the case we direct that the respondent/husband shall bear the expenses for travel by Air of the wife, petitioner herein from Bangalore to Delhi and back on the dates on which her presence is required at Delhi in Court or the respondent may send air tickets (economy class) well in time. The respondent will also make arrangement for the petitioner's stay at Delhi during the period or it is open to the petitioner to stay with her relatives at Delhi and the respondent shall pay a sum of Rs.500/- per day to meet incidental expenses during her stay at Delhi.

The transfer petition is disposed of in the above terms. No costs.

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.....J.  
(D.P. MOHAPATRA)

New Delhi,  
November 20, 2001

.....J.  
(SHIVARAJ V. PATIL)