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T.P.(C) No. 359 OF 2000

ITEM No.21

Court No. 1

SECTION XVIA
A/N MATTER

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Transfer Petition.(Civil) No.359/2000

AARTI JAYESH SHAH

Petitioner (s)

VERSUS

JAYESH RAMESH SHAH

Respondent (s)

(With Appln(s). for stay & exemption from filing O.T.)

Date : 26/02/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE R.C. LAHOTI
HON'BLE MR. JUSTICE BRIJESH KUMAR

For Petitioner (s) Mr. R.P. Bhatt, Sr. adv.
Mr. M.N. Shroff, adv.

For Respondent (s) Mr. Deba Prasad Mukherjee, adv.

UPON hearing counsel the Court made the following
O R D E R

.....L.....I.....T.....T.....T.....T.....T.....J
.SP2

The transfer petition is allowed in terms of the
signed order.

.SP1

(Neena Verma)
Court Master

(Prem Prakash)
Court Master

Signed order is placed on the file.

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IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

TRANSFER PETITION (C) NO.359 OF 2000@@
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Aarti Jayesh Shah

.... Petitioner

Versus

Jayesh Rajesh Shah

.... Respondent

O R D E R@@
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.....L.....I.....T.....T.....T.....T.....T.....J
.SP2

We had suggested to the parties in this transfer petition, filed by the wife to explore possibilities of reconciliation/settlement, keeping in view the fact that both the petitioner and her husband are young and had got married on 27th November, 1992 only. It is now reported that the settlement talks have failed.

Respondent has filed a petition for nullity of marriage or in the alternative, for divorce under Section 13(1)(ia)/12(1)(a) of the Hindu Marriage Act, which is pending in the Family Court of Greater Mumbai at Bandra being MJP No.A-1878/1994. Through this petition, the petitioner - wife seeks transfer of the matrimonial proceedings from Mumbai to Ahmedabad, where she is living now.

: 2 :

The petitioner has filed a criminal complaint against the respondent and others, which is pending in the Court of Metropolitan Magistrate at Ahmedabad. Complaint is for offences under Section 498-A, 323, 504, 506, 114 IPC and Section 4 of Dowry Prohibition Act. The respondent would be required to appear, in the criminal case pending against him at Ahmedabad to defend himself. It, therefore, appears appropriate to us to allow this petition and withdraw the matrimonial petition filed by the respondent, pending in the Family Court at Mumbai and transfer the same for its trial to the Family Court at Ahmedabad. We make an order accordingly.

The learned Presiding Judge of the Family Court at Mumbai shall send the record of the case to the transferee court without any delay. The parties through their learned counsel are directed to appear before the Family Court at Ahmedabad on 20th April, 2001. The family Court at Ahmedabad where Matrimonial Jurisdiction Petition No.A-1878 of 1994, titled Jayesh Ramesh Shah vs. Aarti Jayesh Shah@@

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shall stand transferred, shall expeditiously dispose of the case, after notice to the parties.

: 3 :

In the event better sense prevails and parties are prepared to reconcile, the Family Court at Ahmedabad, if apprised of it, may pass appropriate orders.

We wish to clarify that we have not expressed any opinion on the merits of the case nor have we taken note of the allegations and counter allegations made by the parties against each other in their affidavit and counter-affidavit

filed in this Court.

The transfer petition is allowed in the above terms.

.SP1

.....CJI.

.....J.
(R.C. LAHOTI)

New Delhi,
February 26, 2001.

.....J.
(BRIJESH KUMAR)