

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(s). 572 OF 2011

SARIKA KUMARI Petitioner(s)

VERSUS

RAJEEV KUMAR Respondent(s)

(With appln(s) for directions,stay and office report )

WITH T.P.(CRL) NO. 245 of 2011  
(With appln.(s) for ad-interim ex-parte stay and office report)

T.P.(CRL) NO. 274 of 2011  
(With appln.(s) for stay and urging additional grounds and office report)

Date: 22/07/2013 These Petitions were called on for hearing today.

CORAM :  
HON'BLE MR. JUSTICE SUDHANSU JYOTI MUKHOPADHAYA  
HON'BLE MR. JUSTICE RANJAN GOGOI

For Petitioner(s)  
Mr. Sanjay Jain,Adv.

Mr. Shishir Pinaki, Adv.  
Mr. Samir Ali Khan, Adv.  
Mr. Anut Prakash, Adv.

For Respondent(s)  
Mr. Annam D.N. Rao,Adv.  
Ms. Mansha Monga, Adv.  
Mr. A. Venkatesh, Adv.  
Mrs. Neelam Jain, Adv.

Mr. Gopal Singh, Adv.  
Ms. Ekshita Choudhary, Adv.

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

The transfer petitions are disposed of in terms of the  
signed order.

(Sukhbir Paul Kaur)  
Court Master

(Indu Bala Kapur)  
Court Master

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA  
CIVIL ORIGINAL JURISDICTION

TRANSFER PETITION(CIVIL) NO. 572 OF 2011

|SARIKA KUMARI

|Appellant(s) |

Versus

|RAJEEV KUMAR

|Respondent(s) |

W I T H

TRANSFER PETITION(CRIMINAL) NO.274 OF 2011

TRANSFER PETITION(CRIMINAL) NO.245 OF 2011

O R D E R

The Transfer Petition(C) No. 572 of 2011 has been filed by the wife Sarika Kumari for transfer of H.M.A. No. 1483 of 2010 titled as Rajeev Kumar versus Sarika Kumari pending before the Court of District and Sessions Judge, Saket, New Delhi. During the pendency of the case, learned counsel for the parties submitted that the matter shall be amicably settled. A Memorandum of Agreement has been drawn and the same has been filed. It appears that after the marriage, differences arose between the parties leading to filing of various complaints as shown at paragraph 3 of the agreement. Three police cases have been lodged. The first being P.S. Case No. 347 of 2006 filed by the wife Sarika Kumari under Section 498A, 323 and 379 IPC and under Section 3 and 4 of the Dowry Prohibition Act on 21st October, 2006 before the Police Station Laheriasarai against her Husband and family members. In the said case the Court below has taken cognizance under Section 498A IPC and the matter is pending.

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The second P.S. Case No. 343 of 2006 filed by Shri Anil Kumar Saha, father of Shri Rajeev Kumar before the Police Station Laheriasarai under Sections 147, 148, 323, 324, 341 IPC on 18th October, 2006 against Smt. Sarika Kumari and her brother Aman Kumar. Subsequently, in quashing proceedings the High Court of Patna quashed the case against Smt. Sarika Kumari. The Court has taken cognizance against Shri Aman Kumar, brother of Sarika Kumari and the matter is pending in the Court of Judicial First Class Magistrate, Darbhanga. For this, brother of Smt. Sarika Kumari has preferred Transfer Petition(Crl.) 245 of 2011 before this Court.

The third P.S. Case No. 26 of 2007 filed by Anil Kumar Saha, father of Shri Rajeev before Police Station Laheriasarai under Section 379 IPC against Smt. Sarika Kumari, her parents and her brothers. The Court has taken cognizance under Section 379 IPC and the same is pending. Seeking transfer of this case Sarika Kumari and her family members have preferred Transfer Petition(Crl.) No. 274 of 2011 before this Court.

The rest are the matrimonial cases preferred by one or the other parties.

Each of the parties 1st and 2nd part have mutually agreed with other by the terms as shown in the agreement, which reads as follows :-

(i) That the party of the first part has willfully and voluntarily agreed to pay sum of Rs.40,00,000/- (Forty

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Lakhs) as onetime payment to the parties of the second part towards the life maintenance, expenses of the minor female child named Suryanshi Saha born out of the wedlock.

(ii) The party of the second part willfully and voluntarily representing the interest and welfare of the minor child has agreed to receive the lump sum amount of Rs.40,00,000/- (Forty Lakhs).

(iii) That out of the aforesaid amount of Rs.40,00,000/- (Forty Lakhs) a sum of Rs.20,00,000/- (twenty lakhs) is being paid today vide demand draft No. 824287 dated 4.7.2013 drawn on Punjab National Bank, Tower Chowk, Darbhanga.

The receipt of which is acknowledged by the Party of the Second part.

(iv) The balance amount of Rs.20,00,000/- (twenty lakhs) would be paid by the party of the first part to the party of the second part on the date when the decree of divorce would be passed by the competent Court at Delhi.

(v) That the party of the second part and the minor daughter Suryanshi Saha after the grant of the divorce decree and receipt of the total amount of Rs.40,00,000/- (forty Lakhs) shall not have nor make any claim whatsoever from the party of the first part or his family members in the future.

(vi) That the parties on the date of the execution of this agreement has agreed to take all steps to withdraw the respective complaints filed by them as mentioned herein

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above and any other petition filed by them and any other such complaint or petition filed by one of the parties and not within the knowledge of the other party and other proceedings arising thereof.

(vii) Both the parties shall cooperate with each other in filing requisite applications/petitions for withdrawal/quashing of the above mentioned cases and proceedings arising thereof and in obtaining divorce by mutual consent in H.M.A. No.1483 of 2010 filed by Rajeev Kumar before the District and Sessions Judge, Saket under Section 13(1)(ia) and (ib) of the Hindu Marriage Act, 1955.

(viii) Subject to the terms and conditions provided in the MOU either party shall release and discharge the other of any claims, rights or demands existing, past or future arising out of the wedlock period between them and thereafter.

(ix) That the parties shall not herein after interfere in any manner with life of the other and the relationship between them in all respects stand severed.

Learned counsel for the parties orally submitted that the parties may feel difficult to withdraw criminal cases wherein cognizance has been taken. Therefore, they requested to set aside the criminal cases pending before different Courts, as referred to above.

In view of the stand taken by the parties and with a view to give a quietus to the disputes between the

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parties, we pass the following orders :-

1. P.S. Case No. 347 of 2006 filed by the wife Smt. Sarika Kumari under Section 498A, 323 and 379 IPC and under Section 3 and 4 of the Dowry Prohibition Act on 21st October, 2006 before the Police Station Laheriasarai against her husband and family members is called for from the concerned Court and the same is quashed.
2. P.S. Case No. 343 of 2006 filed by Shri Anil Kumar Saha, father of Shri Rajeev Kumar before the Police Station Laheriasarai under Sections 147, 148, 323, 324 and 341 IPC dated 18th October, 2006 against Smt. Sarika Kumari and her brother Aman Kumar and is pending before the Court of Judicial First Class Magistrate, Darbhanga is called for from the concerned Court and the same is quashed.
3. P.S. Case No. 26 of 2007 dated 23rd January, 2007 filed by Shri anil Kumar Saha, father of Shri Rajeev before the Police Station Laheriasarai under Section 379 IPC against Smt. Sarika Kumari, her parents and her brothers is called for from the Court concerned and the same is also quashed.

The parties are given liberty to move before the appropriate Court for rest of the reliefs, as per the agreement.

The parties shall abide by the terms and conditions of the memorandum of agreement reached

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between them.

The Transfer Petitions stand disposed of with the aforesaid observations and directions.

.....J.

(SUDHANSU JYOTI MUKHOPADHAYA)

.....J.

(RANJAN GOGOI)

New Delhi,  
July 22, 2013