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T.P.(C) No. 790 OF 2001

ITEM No.301

Court No. 4

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

Transfer Petition (Civil) No.790 of 2001@@  
CC

NIRMALA DEOLI

Petitioner (s)

VERSUS

PAWAN KUMAR DEOLI

Respondent (s)

(With Office Report)  
(For Final Disposal)

Date : 25/11/2002 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SYED SHAH MOHAMMED QUADRI  
HON'BLE MR. JUSTICE S.N. VARIAVA

For Petitioner (s) Ms. B.Sunita Rao,Adv.

For Respondent (s) Mr. D.N. Goburdhan,Adv.

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

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Heard learned counsel for the parties from 2.05 p.m.  
to 2.15 p.m.

The transfer petition is ordered.

No costs.

(T.I. Rajput)  
Court Master

(Kanwal Singh)  
Court Master

(Signed order is placed on the file)

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IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

Nirmala Deoli

....Petitioner

Versus~

Pawan Kumar Deoli

.....Respondent

O R D E R@@  
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This is a petition for transfer of Matrimonial Petition  
No. 324 of 2001, titled Pawan Kumar Deoli vs. Nirmal Deoli,@@  
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pending before the Civil Judge (Senior Division), Dehradun to  
a court of competent jurisdiction at Mumbai.

The petitioner is the wife of the respondent.

It appears that, earlier, the respondent-husband filed  
a petition under Section 13 of the Hindu Marriage Act, 1955  
for divorce before the Civil Judge (Senior Division),  
Dehradun. On the application of the petitioner, the said  
petition was transferred to Mumbai. Thereafter, the  
respondent remained absent; consequently, the said petition  
for divorce was dismissed by the Family Court at Mumbai.  
However, the respondent filed the present petition under  
Sections 9 and 13(1-b) of the Hindu Marriage Act, 1955 for  
...2/-

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restitution of conjugal rights, which is the subject-matter of  
this transfer petition.

The grounds on which the petitioner seeks transfer of  
the petition is that she is unable to travel alone from Mumbai  
to Dehradun to contest the case and that she has no source of  
income to incur expenses on travel. Her further grievance is  
that the respondent did not pay the maintenance, as awarded by  
the order of the Family Court at Mumbai dated 10th July, 2000.  
The respondent, on the other hand, expressed his inability to  
travel from Mumbai to Dehradun on the ground that he cannot  
incur the expenditure every time on himself and the witnesses.

We called upon the learned counsel for the parties to  
try and find out if there could be a settlement between the  
parties. Indeed, by order dated 13th September, 2002, we  
fixed a date for appearance of the parties in this court. The  
respondent appeared, but the petitioner did not appear. Be  
that as it may, we propose to decide the transfer petition on  
merits.

Having regard to the rival contentions of the parties  
and the offer of the learned counsel for the respondent that  
if the matrimonial petition is transferred to Delhi, the  
respondent undertakes to bear the travel expenses of the  
petitioner and the person who would accompany her, we consider  
...3/-

it just and appropriate to direct transfer of the Matrimonial  
Petition No. 324 of 2001, titled Pawan Kumar Deoli vs.@@  
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Nirmal Deoli, pending before the Civil Judge (Senior@@  
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Division), Dehradun to the Court of District Judge, Tis  
Hazari, Delhi, who may try the case himself or assign it to a  
competent court, subject to the following conditions:

- (1) that the respondent shall pay the amount of maintenance  
due to the petitioner pursuant to the order of the  
Family Court at Mumbai dated 10th July, 2000 on or  
before March 31, 2003; and
- (2) that on the date when the presence of the petitioner is  
necessary, the respondent shall pay the cost in advance  
to the petitioner towards the cost of travel for  
herself and a companion.

The transfer petition is, accordingly, ordered.  
No costs.

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(Syed Shah Mohammed Quadri)@@  
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.....J.@@  
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(S.N. Variava)@@  
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New Delhi,  
November 25, 2002.