

**IN THE SUPREME COURT OF INDIA
(CIVIL TRANSFER JURISDICTION)**

TRANSFER PETITION (CIVIL) NO. ----- OF 2018

IN THE MATTER OF:

Xxxxxxxxxxxxxx

W/o xxxxxxxxxx

D/o xxxxxxxxxxxxxxxxxx

R/xxxxxxxxxxxxx

.....Petitioner

Versus

xxxxxxxxxxxxxxx

S/o xxxxxxxxx

R/o xxxxxxxxxxxxxxxxxx

.....Respondent

**REPLY TO THE TRANSFER PETITION UNDER
SECTION 25 C.P.C. FOR SEEKING TRANSFER OF THE
CASE BEARING NO. xxxxxx TITLED xxxxxx VS.
XXXXXXXXXXXXX PENDING IN THE COURT OF
PRINCIPAL JUDGE, FAMILY COURT, xxxxxx TO THE
APPROPRIATE COURT OF ITS JURISDICTION AT
SAKET COURT (DISTRIC SOUTH), NEW DELHI.**

The Hon'ble Chief Justice of
India and his Lordships
Companion Justices of the
Hon'ble Supreme Court of India

The Humble reply of the
above-named respondent.

Most Respectfully Showeth:

1. That the transfer petition cannot be exercised to frustrate
the object and purpose of statutory provisions as

enshrined in section 19 of Hindu Marriage Act and the Principal Judge, Family Court Jhansi (U.P.) is having the legal and territorial jurisdiction to try, entertain and adjudicate upon the subject matter of the divorce petition as the Petitioner and the Respondent had discharged the marital obligations at Jhansi, so the present petition is not legally maintainable and sustainable in the eyes of law and the same is without any force of law and the same is devoid of any merits and substance.

2. That the petitioner has taken the plea that respondent is an influential person and had given threats to the petitioner, however, she has neither placed on record any evidence nor provided any specific details. That as a legally trained person, the respondent is well-versed in making assertions but these are merely bald assertions without any substance. That the respondent undertakes to provide cost of travel for the petitioner for each of her visit for court appearance.
3. That the Petitioner has taken the plea of the physical condition of her father for transfer of the case from

XXXXX to Delhi whereas her father has nothing to do for conduct of the instant divorce case.

4. That the Petitioner is an advocate and it will not be difficult to conduct the case at XXXXX, save the fact that she has to conduct the case through a counsel who has to attend the court on many occasions except during evidence when the presence of the Petitioner or witness are required.
5. That the present petition is sheer abuse and process of law and the same has been moved by the Petitioner without any cause of action and without any merits and substance and without any justified and lawful grounds and reasonable and probable cause.
6. That the entire transfer petition has been filed on the vague grounds and does not transpire the confidence and trust.
7. That the present proceedings is a device on the part of the Petitioner to delay the trial.
8. That the Petitioner cannot be permitted to select the forum/court of her own choice.

9. That in a system of rule of law the statutory power of any court to adjudicate any dispute cannot be taken away under the garb of transfer power.

REPLY ON MERITS:

1. That the contents of para No. 1 are matter of judicial record to the extent of filing of the proceedings before this Hon'ble Court and rest of the para are denied in toto. That it is specifically denied that the respondent herein is a influential person and had given threats to the life of the petitioner and the petitioner is not having sufficient financial resources to manage frequent visits to such a far of place all alone particularly when he petitioner is having continuous threat to her life from the hands of the respondent, his relatives and his local associates.
2. Para no. 2 of the corresponding petition is admitted
3. That the content of para no.3 of the corresponding petition is wrong, false and hence denied in toto. That it is specifically denied that the parents of the petitioner spent huge amount over the dowry and other

arrangements of the marriage and the parents of the petitioner provide entire household articles, jewellery as per their capacity.

4. That content of para no. 4 of the corresponding petition are admitted. That it is submitted that the petitioner herein is preferring not to have divorce proceeding transferred at Ghaziabad but at Saket.
5. That the contents of para no. 5 of the corresponding petition are wrong, false and hence denied in toto. That it is specifically denied that that the respondent right from the day of marriage, the petitioner has been subjected to taunts, humiliation, exploitation, deprivation and maltreatment. It is denied that the respondent always uses filthy language and frequently used to give merciless beating and torture, cruelty with petitioner.
6. That contents of para no. 6 of corresponding petition are admitted to the extent that petitioner joined her matrimonial house at Jhansi. That the rest of the para is denied in toto. It is submitted that the petitioner is simply trying to create jurisdiction by making wrong assertions.

7. That the contents of para no. 7 of corresponding petition are false, wrong and hence denied in toto. It is denied that after the said marriage about 15-20 days the mother-in-law, who was residing in Jhansi, she also joined with petitioner. It is denied that mother-in-law after passing 1-2 days started comments passing unbearable language with taunting towards and abusing the petitioner and stated that the petitioner had not bring sufficient dowry in her said marriage and the petitioner's parents had not spent sufficient money in the marriage as per their expectation and status and number of time, the mother in-law of the petitioner shown unpleasantness about the marriage.
8. That content of para no. 8 of corresponding transfer petition is wrong, false and hence denied in toto. That it is specifically denied that the petitioner tried to bring into the notice of the respondent about the behaviour of mother-in-law but after hearing upon the said the respondent violently with the petitioner and threatened to the petitioner that whatever the dowry had been given by the parents of the petitioner were very less even it is not

upto the expectation and status of the respondent. It is further denied that the wife of his close friend namely xxxxxxxx, who bring Car and other household articles with cash in large quantity in her marriage and the respondent used to give mental torture to the petitioner. It is denied that it is not stopped to the respondent committed a cruelty with petitioner but the respondent spent most of his time or nights with his friends XXXXXXXXXXXX who was also residing in the same Society, when the petitioner asked the reason about not spending the night with the petitioner, the respondent replied that he can leave the petitioner but he can never leave his friend XXXXXXXXXXXX.

9. That the content of the para no.9 of corresponding petition is wrong, false and hence denied in toto. It is specifically denied that after passing sometime, the respondent demand some money from the petitioner and stated that the petitioner should bring amount of Rs.5 Lakhs from her parents because the respondent want to buy a car and at that time the respondent behave very cordially and diplomatically, when the petitioner stated

that her parents not in position to fulfill of his illegal and unjustified demand of Rs.5 Lakhs from her parents because the parents of the petitioner are just retired persons and they just finish their money in the marriage of the petitioner, after hearing the said version of the petitioner, the respondent became very rude towards to the petitioner and started abusing the making loud voice towards to the petitioner.

10. That the content of para no. 10 is wrong, false and hence denied. It is specifically denied that in the month of May 2012 the respondent snatched the mobile of the petitioner and used to beat her and asked to leave the house immediately because the respondent was paying rent of the said property and stated that she had no right to live with him. It is further denied that after this incident the petitioner felt shocked and took an auto in the night of the same day and reached her parental houseXXXX, Ghaziabad, U.P. at that time. It is denied that the next day the parents of the petitioner discussed about the said incident with the respondent and requested to him to allow the petitioner joined her matrimonial home.

11. That the content of para no. 11 of the corresponding petition is false, wrong and hence denied. It is specifically denied that the respondent and his mother continuously used to taunt upon the petitioner and the respondent showing his inability about to meet out the day to day expenses due to the short of money and pressurized the petitioner to demand the extra money from her parents to meet out her day to day expenses. It is denied that respondent took all the amount from petitioner on two occasions after take the cheque of Rs. 10,000/- and another cheque of Rs.70,000/- withdraw from her account.

12. That the content of para no.12 of the corresponding petition is false, wrong and denied. It is specifically denied that after receiving the said money from the petitioner, the respondent and his mother regularly stated to the petitioner that she required to be earned herself and whatever she will be earned that money supposed to be given to the respondent.

13. That the content of para no. 13 of the corresponding petition is false, wrong and denied. It is specifically denied that the mother of the respondent called her elder son and his wife and stared misbehavior and commenting upon the petitioner and due to the said behavior and ill-treatment the health of the petitioner started deteriorated day by day, when the petitioner asked from the respondent to take her to a doctor then he refused the same and told the petitioner that he had no money to spend over her treatment and he further told the petitioner that she supposed to live with her parents, after this harassment of the respondent, the petitioner left the matrimonial house and the reached her parents house and requested to them to take her to the doctor and the said doctor advised to the petitioner to take complete physical and mental rest.
14. That the content of para no.14 of the corresponding petition is wrong, false and hence denied in toto. It is specifically denied that in the month of August 2013, the respondent have not care the petitioner and in this month the respondent visit the house of her parent and during this visit, the parents of the petitioner left for USA and

requested to respondent to live with her at their home, the respondent agreed to live with the petitioner with the promise that he will not harass/hurt the petitioner, the petitioner believed upon the petitioner and again started to live with him.

15. That the content of the corresponding para of the petition is wrong, false and hence denied in toto. It is specifically denied that after passing 20-25 days the respondent again repeat the same behavior and demand to her to earn money and further stated that he supposed to be left to Germany for some work of his company, then the petitioner supposed to be go back to her parental house and again the respondent disclosed that he had planned to go Himachal and when the petitioner asked about his return schedule from Himachal then the respondent told her that he do not made any plan for return it may be two or three months and he again stated that he may be started to live at Himachal.

16. That the content of the corresponding para of the petition is wrong, false and hence denied in toto. It is specifically

denied that upon the believing and trust with the promise for better life the petitioner started living with him and after sometime the mother of the respondent behaving very badly and asking to the petitioner not to indulge in the daily routine work of the household. It is denied that even the respondent and his mother continuously taunting, harassing and humiliating to the petitioner even on the petty issues and further respondent his mother frequently demand more cash and jewellery items from her parents. It is denied that even one of the occasion, the petitioner communicate through mail to the respondent and requested to him to create livable atmosphere before the petitioner wants to spend her time with him.

17. That the content of corresponding para of the petition are wrong, false and hence denied in toto. It is specifically denied that respondent after returning from Himachal, again started comments to the petitioner and started torture like he left the house for 4-5 days without informing to the petitioner and even after coming back from the office he used to went directly to the house of

his friend and spend late night there and other type of his conduct which was regularly giving the mental torture to the petitioner.

18. That the content of the corresponding para of the petition are wrong, false and hence denied in toto. It is specifically denied that in the first week of July 2014, the respondent left to Jhansi without informing his programme and when the petitioner tried to contact with him he had not given any satisfactory reply about his return and further petitioner also tried to make contact with his mother about the schedule to return at Delhi then the mother of the respondent also not given any satisfactory reply. It is denied that after spending about 15-18 days alone in the said rented house without any financial support and even without any sufficient household articles including foods items/grocery at that house, the respondent spent her night without even taken proper food during that period.

19. That the content of the corresponding para of the petition are wrong, false and hence denied in toto. It is

specifically denied that the petitioner left no other option except locked the said house with her all personal belongings and other valuable including the jewellery articles in that house and come back to her parental house.

20. That the content of corresponding para of the petition are wrong, false and hence denied in toto. It is specifically denied that on 16.07.2014, the petitioner reached her parental house but the respondent had not bother about her well being and never tried to take her back at that time.
21. That the complaint made by the petitioner is a matter of record but the rest of the para is wrong, false and denied.
22. That proceeding at the CAW cell, East District are a matter of record but the rest of the para is wrong, false and denied.

23. That application under Protection for Women from Domestic Violence Act 2005 before the Ld. M.M. Mahila Court-2, Karkardooma Delhi is matter of record.
24. That content of corresponding para is matter of record and needs no reply
25. That it is admitted that in the month of January-February 2015, the petitioner left to Mumbai in the company of respondent and started living with him. Rest of corresponding para of the petition is wrong, false and denied in toto until specifically admitted.
26. That the content of corresponding para is wrong, false and denied in toto. It is specifically denied that around month of February 2015, the petitioner having her saving around Rs.60,000/- in her ICICI Bank Saving Account but the respondent asked to spend the said money and purchase the Fridge, Microwave, Dinning Cabinet and kitchen hardware and the entire money of the petitioner had been spent over the said items and the petitioner

became penny less after the withdrawal of the said amount from her ICICI Account.

27. That the content of corresponding para are wrong, false and hence denied in toto. It is specifically denied that the petitioner started her job in the month of March 2015 with Small Law Firm Gold Bricks, Legal Advocate and Associated and getting the salary of Rs.10,000/- per month and the said salary remit in the Account of HDFC Bank through online and the respondent used to withdraw the salary amount from the account of the petitioner from his bank and always used to abuse and criticize the petitioner that she was getting very less salary and the respondent had not received any benefits from the petitioner likewise that she was getting less salary from her employment and had not received satisfactory dowry and most of time given the mental torture to the petitioner and the petitioner was bound to live with the respondent for the sake of maintain the matrimonial relation in good spirit with the respondent but the respondent never shown his pleasant behavior towards to the petitioner.

28. That the content of corresponding para is wrong, false and hence denied in toto. It is specifically denied that in the month of July 2015, the mother of the respondent arrived from Jhansi to live with the respondent and petitioner and after her arrival she used to be started bad behaviour and always used to abusive language with warning that if the petitioner will not follow her instructions then she will be slapped upon her and the respondent also used to behave likewise and repeatedly warned to the petitioner that if the petitioner not follow his instruction then he also will give a hard slap to her, in fact the mother-in-law of the petitioner, when she left to Jhansi then she warned the petitioner that she had made up her mind to get the divorce from the petitioner. It is denied that the petitioner always live under tremendous tension and under fear with the company of respondent and his mother during that period.

29. That content of corresponding para is wrong, false and hence denied in toto. That it is specifically denied that on the occasion of the Diwali in the year 2015, when the

petitioner asked to purchase some seasonal goods/items for the use of decoration of the house then the respondent asked to the petitioner that he had no such amount spent over said occasion and if she want to wish to spend then she has to be asked that amount from her parents. The Diwali Festival was not celebrated by the respondent at that point of time.

30. That the content of the corresponding para is wrong, false and denied in toto. It is specifically denied that in the month of February 2016, the mother-in-law of the petitioner was again arrived at Mumbai and started live the petitioner and respondent and she started again the same behavior which she was doing earlier with the petitioner. It is denied that in the meantime the health of the petitioner became deteriorated day by day and the petitioner had not feel even to feed herself and felt serious ill. In this regard the parents of the petitioner speak to the respondent and his mother and asked to them to take to the petitioner for her treatment with a good doctor then the respondent and his mother refused to do the same and asked to the parents of the petitioner that if they wish to provide the good medical care to the

petitioner then they are free to take the liberty to take her medical treatment, the respondent left the petitioner all alone in her bad health condition to attend a marriage function at Jhansi and in the meantime the mother of the petitioner arrived at Mumbai from all the way and take to the petitioner with a doctor and provide the medical treatment and after getting the medical attention, the health of the petitioner recovered within 10 days.

31. That the para of the corresponding petition is wrong, false and denied in toto. It is specifically denied that on **** the parents of the petitioner arrived at Mumbai after so many incident happened with the petitioner during that period and the respondent always used to communicate to the parents of the petitioner that they have to be take here from the company of the respondent and in fact the heath of the petitioner was in very bad shape and most of the occasions the petitioner could not get proper food and sleepless night, after reaching the parents of the petitioner they noticed that the4 petitioner was living in a very bad shape and her health was not good and even the petitioner have any confidence for her survival so that t6he parents of the petitioner left no other option except

to take her back to their house at xxxxxx, since then the petitioner left the company of the respondent.

32. That the corresponding para of the petition is wrong, false and hence denied in toto. That it is specifically denied that after getting the treatment, the petitioner started to do the small job with a small law officer at Delhi and she was unable to commute from Ghaziabad on the daily basis then she had arranged an accommodation on the basis of paying guest at South Delhi area, address as mentioned above.

33. That the corresponding para of the petition is wrong, false and hence denied. It is specifically denied that the petitioner number of time tried to speak with the respondent over his Mobile No. ***** and ***** to inform him about her health and current status but the respondent never received the mobile call of the petitioner, so many occasions the petitioner also sent messages to him about to lead a good matrimonial life with him but the respondent never respond in this regard.

34. That the corresponding para of the petition is wrong, false and hence denied. That it is specifically denied that the petitioner also tried to communicate and reconcile the matrimonial relationship with respondent through email ID [*****](#) and write a detailed messages about the present status and her expectation to maintain the good harmony between the relationship and other future plans in this regard and sometime also requested to him to provide financial assistance for the help of the petitioner, upon the said request the respondent remitted Rs.19,000/- in the account of the petitioner for initially 2-3 months and after that he had stopped to pay any amount to the petitioner till date.
35. That the criminal complaint at CAW Cell, District South is matter of record but the rest of the para is wrong, false and hence denied.
36. That the corresponding para of the petition is wrong, false and denied. That it is specifically denied that the concerned inquiry officer sent a notice to the respondent for the purpose of investigation and fact finding upon the complaint of petitioner. It is denied that the respondent

appeared before the concerned inquiry officer for two occasions and his behavior was not satisfactory and he participate in queries with very casual manner and he had not cooperate to the inquiry officer during the course of his appearance before the inquiry officer in this regard.

37. That the proceedings of the CAW Cell, District South are matter of record and need no reply.
38. That HMA petition was instituted by the respondent as due to the atrocities and cruelty by the petitioner and that respondent sees no hope of living together with petitioner. That the corresponding para of the petition is wrong and false and hence denied. It is specifically denied that in the counterblast of the criminal complaint filed by the petitioner against the respondent about for torturing, mental agony and other physical violence committed upon petitioner by the respondent for demanded more dowry and more money from the parents of the petitioner then in resulted that the respondent institute a case of divorce under Section 13 of Hindu Marriage Act.

39. That the proceedings of the family Court, Jhansi U.P. in HMA Petition No.***** titled as *****
XXXXXXXXXX are matter of record and need no reply.
40. That the grounds taken by the Petitioner in the transfer petition are baseless and denied as explained in the preliminary objections regarding not to transfer the instant case.

That in view of the reply in the preceding paras the respondent does not wish to repeat the same in reply to the grounds by the petitioner and denies all grounds as frivolous and lacking force of law.

No new facts which were not pleaded or placed below before the courts below have not been placed or pleaded in the present counter affidavit.

The prayer clause of the transfer petition are false, fabricated, baseless, frivolous, hence wrong and denied and the petitioner is not entitled to any relief and thus the transfer petition being concocted and without cause of action may kindly be dismissed with heavy cost.

PRAYER

It is, therefore, most respectfully prayed to this Hon'ble Court that in view of the above stated facts and circumstances the petition of the petitioner may very kindly be dismissed with exemplary costs in the interest of justice, equity, fair trial.

Any other order/relief/direction may also kindly be passed in favour of the respondents and against the petitioner as this Hon'ble Court may deem, fit, just and proper according to the facts and circumstances of the present case.

Respondent

Delhi

Dated

VERIFICATION:

I, the above named deponent do hereby verify that I have read and understood the contents of the above counter affidavit and that the same are true and correct to the best of my knowledge and belief. No part of the same is false and nothing material has been concealed therefrom.

Verified at New Delhi on this ___ day of April, 2018.

DEPONENT

IN THE SUPREME COURT OF INDIA
(CIVIL TRANSFER JURISDICTION)

TRANSFER PETITION (CIVIL) NO. *****

IN THE MATTER OF:

Xxxxxxxxxxxx

.....Petitioner

Versus

XXXXXXXXXX

.....Respondent

A F F I D A V I T

I, XXXXXXXXXXXXX S/o Sh. [_____], aged about XX
years R/o [_____],

do hereby solemnly affirm and declare as under:

1. That I am the respondent in the above noted case and am well conversant with the facts and circumstances therefore.
2. That the contents of accompanying reply to transfer petition has been drafted by me, the contents whereof may be read as part and parcel of the present affidavit as the same are not repeated here in for the sake of brevity, the contents whereof are true and correct to the best of my knowledge.

DEPONENT

VERIFICATION:

I, the above named deponent do hereby states solemn affirmation and declare that the contents of aforesaid affidavit are true and correct to the best of my knowledge and belief and nothing material has been concealed there from.

Verified at Delhi on this ____ day of April, 2014.

DEPONENT