

IN THE SUPREME COURT OF INDIA
CRIMINAL/CIVIL ORIGINAL/APPELLATE
JURISDICTION

TRANSFER PETITION (CRIMINAL) NO. 491-498/2021

GAURAV GARG . .PETITIONER(S)

VERSUS

SHWETA AGARWAL & ORS.ETC. . .RESPONDENT(S)

WITH

T.P.(C) No. 2528-2530/2021

C.A. No. 6109/2023 @ SLP(C) No. 20818/2022

T.P.(C) No. 2429/2022

O R D E R

Leave granted in the Special Leave
Petition.

Learned counsel for the parties are
assisted by the parties. Though mediation has not
been successful, we impressed upon parties and
the counsels of a desirability of bringing the
usual bouquet of cases in matrimonial disputes to
an end. In fact this is an aggravative case
where possibly between the parties, there are 21
cases filed by one side or the other!

We appreciate the advice rendered by the
counsels to the parties which has been adopted by
the parties in Court and they have agreed to

resolve all their disputes in the following manner:

1) A decree of divorce dated 24.01.2023 has already been passed by the Additional District Judge, 2nd Court, Siliguri, District Darjeeling in Matrimonial Suit No. 60(2)/2018. It is fairly stated on behalf of the petitioner that even though it is a decree of divorce on grounds of cruelty, the petitioner wants to bring this issue to an end and will not assail that judgment in any further proceedings. The said statement is taken on record.

2) Insofar as the permanent alimony is concerned, there is a child from the marriage, named, Dhairya, who is living with the respondent/mother and would continue to be in her custody. The provision itself has to be made for the permanent alimony for the benefit of the wife and the child. It is agreed before us that a lump-sum amount of Rs. 30 lakhs will be paid by the petitioner/husband to the respondent/wife towards the said purpose within four weeks in full and final settlement of all her claims towards the maintenance, stridhan etc., whatever it be.

3) We now come to the most contentious issue which is before us, the visiting rights, which

gave rise to multiple cases. It is necessary that the child should get the benefit of the affection of both the parents even though the parties have not been able to live together. It appears that on the visiting rights, contentions arise with regard to the visiting process. The visiting right is granted on alternative Sundays between 10.00 a.m. to 5.00 p.m. The child apparently has not met the father for some time and thus an unsupervised visit which is what is proposed but it would be appropriate that initially the interaction between the father and the child is in the presence of a counsellor to be appointed by the State Legal Services Authority at Calcutta. The visitation will be at Siliguri where the respondent/wife resides.

4) On the child being comfortable with the father, unsupervised interaction can take place and in the vacations, the child can be with the father for about a week once the counsellor is of the view that the interaction is taking place in a manner which facilitates such unsupervised interaction for a longer period of time in the vacations.

5) The list of the criminal and civil cases inter se the parties are as under :

TP (CRL) NO.491-498/2021**GAURAV GARG (PENDING MATTERS)**

Sl. No.	COURT	CASE NO	FACT OF THE CASE	NEXT DATE	PRESENT STAGE	REMARKS
1.	Judicial Magistrate, 4 th Court at Siliguri	Misc Case No.42/2018 Shri Gaurav Garg vs. Smt. Shweta Agarwal	An application under section 127 of CrPC for alteration of interim maintenance amount from Rs.25,000/- per month to the Petitioner and Rs. 15,000/- per month to the minor son of the Petitioner to Rs. 5,000/- to the Petitioner and Rs. 5,000/- to the minor son of the Petitioner.	14.10.2022	Pending for evidence and necessary order	
2.	Judicial Magistrate 4 th Court at Siliguri	G.R. Case No.2147/2017 Siliguri P.S Case No.490/2017 State vs. Rahul Agarwal	A complaint was lodged by Gaurav Garg under Siliguri PS. His allegations is Rahul Agarwal, brother of Shweta Agarwal was beat him in Siliguri Court Complex and also demanding money.	9.11.2022	Evidence of Charge sheet Witness 1	
3.	A.D.J. Fast Track Court at Siliguri	Criminal Revision No.23(6)/2019 Shri Gaurav Garg vs.	An application in connection with Misc. Execution Case No.69/2019 arising out of	21.9.2022	Hearing	

		Smt. Shweta Agarwal	M.R.Case No.72/2015			
4.	Additional District and Sessions Judge (Ist Court) at Siliguri	Mat Suit No.149/2019 Sri Gaurav Garg Vs Smt. Shweta Agarwal	An application was filed for restitution of conjugal rights by Gaurav Garg at Jalpaiguri, subsequently an application was filed by Shweta Agarwal at the Hon'ble High Court being C.O. No.3 of 2019 after hearing which the Hon'ble Court was pleased to transfer the matter to Siliguri Court from Jalpaiguri Court.	26.9.2022	Hearing of Ex-parte Vacate Petition	
5.	ACJM (Personal File) At Siliguri	G.R.Case No.577/2016 Siliguri P.S. Case No.162/2016 State Vs Sri Ashoke Kr.	Complaint filed by Gaurav Garg against Ashoke Kumar Agarwal, Rahul Agarwal, Sunil Agarwal and Ashoke Sharma for his forceful restraint and assault.	10.1.2023	Evidence	
6.	ACJM (Personal File) At Siliguri	G.R.Case No.2599/2018 Cyber P.S. Case No.23/2018 State Vs Rahul Agarwal	Complaint filed by Raj Kumar Agarwal against Rahul Agarwal under Section 43, 66 of I.T. Act for unauthorized access of Income Tax e-filing account of Raj Kumar Agarwal.	3.9.2022	Evidence	

7.	Additio nal Chief Judicial Magistr ate (G.R. File)	G.R. Case No.4330/2017 Matigara P.S.Case No.724/2017 State Vs. Rahul Agarwal	Complaint filed by Gaurav Garg against Rahul Agarwal, under section 341, 506 and 385 the Indian Penal Code for criminal intimidation and threat.			
8.	Additio nal District and session s Judge (3 rd Court) at Jalpaig uri	Mat. Sut No.134/2022 Sri Gaurav Garg Vs Smt. Shweta Agarwal	An application filed by Gaurav Garg under section 13(1) (ia) 13(l) (ib) of Hindu Marriage Act, 1055 against Smt.Shweta Garg for a decree of divorce.	17.9.20 22	Filing Written Statement	
9.	District Judge at Darjeeli ng	Misc. Judicial (Act VIII) Case No.30/2015 Shri Gaurav Grg Vs Smt. Shweta Agarwal	An application was filed by Gaurav Garg under Section 7, 10, 25 of the Guardians and Wards Act, 1890 read with Section 6 of the Hindu Minority and Guardianship Act, 1956 for custody of their minor child.		Dismissed for default	Again directed as before from High Court
10	JM 1sat Court, Siliguri	CR. No.1327/22	Complaint filed by Shri Gaurav Garg against Shweta Agarwal for Criminal Defamation	Shweta granted Bail in Jan 2023	Pending	

SHWETA AGARWAL (PENDING MATTERS)

SINO	COURT	CASE NO	FACT OF THE CASE	NEXT DATE	PRESENT STAGE	REMARKS
1.	Judicial Magistrate 4 th Court at Siliguri	Misc. Case No.77/2015 Shweta Agarwal Vs Gaurav Garg	That on 27.5.2015 an application under section 23 read with section 12, 18, 19, 20 and 22 of the Protection of Women from Domestic Violence was filed before the Learned Additional Chief Judicial Magistrate at Siliguri being Misc. Case No.77/2015 now pending before the Learned Judicial Magistrate (4 th Court) at Siliguri.	14.10.22	Cross Examination of PW1	
2.	Judicial Magistrate 4 th Court at Siliguri	M.R. Case No.72/2015 Smt. Shweta Agarwal Vs Sri Gaurav Garg	That on 9.7.2015 an application under section 125 of Criminal Procedure Code along with an application for interim maintenance was filed before the Learned Additional Chief Judicial Magistrate at Siliguri being M.R. Case No.72 of 2015 now pending before the learned Judicial Magistrate (4 th Court) at Siliguri.	16.9.22	Further cross examination of PW1	
3.	Judicial Magistrate 4 th Court	Misc. Execution No.37/2017 Smt. Shweta	Execution filed under Section 125(3) of CrPC for the arrears of	16.9.22	Not paid till date	

	at Siliguri	Agarwal Vs Sri Gaurav Garg	interim maintenance for the period of October, 2015 to August, 2017 for the sum of Rs. 3,50,000/- (Rupees Three lacs Fifty Thousand only)			
4	Judicial Magistra te 4 th Court at Siliguri	Misc. Execution No.20/2019 Smt. Shweta Agarwal Vs Sri Gaurav Garg	Execution filed under Section 125(3) of CrPC for the arrears of interim maintenance for the period of , july 2019 to August, 2019 for the sum of Rs. 20,000/- (Rupees twenty Thousand only)	16/9/22	Not paid till date	
5	Judicial Magistra te 4 th Court at Siliguri	Misc. Execution No.18/2019 Smt. Shweta Agarwal Vs Sri Gaurav Garg	Execution filed under Section 125(3) of CrPC for the arrears of interim maintenance for the period of september, 2019 to november, 2019 for the sum of Rs. 1,50,000/- (Rupees one lac fifty Thousand only)	16.9.22	Not paid	
6	Judicial Magistra te 4 th Court at Siliguri	Misc. Execution No.15/2022 Smt. Shweta Agarwal Vs Sri Gaurav Garg	Execution filed under Section 125(3) of CrPC for the arrears of interim maintenance for the period of december, 2020 to february, 2022 for the sum of Rs. 1,50,000/- (Rupees one lac fifty Thousand only)	16.9.22	Not paid	

7.	Judicial Magistrate 4 th Court at Siliguri	Misc. Execution No.43/2022 Smt. Shweta Agarwal Vs Sri Gaurav Garg	Execution filed under Section 125(3) of CrPC for the arrears of interim maintenance for the period of march, 2020 to july, 2022 for the sum of Rs. 50,000/- (Rupees fifty Thousand only	16.9.22	Not paid	
8.	Judicial Magistrate 4 th Court at Siliguri	Misc. Execution No.46/2022 Smt. Shweta Agarwal Vs Sri Gaurav Garg	An application under Section 127 of CrPC for increasing the interim maintenance amount from 5000 each to both the petitioner and her minor son per month to Rs 50,000 to both the petitioner and her son jointly	16.9.22	pending	
9	Addl. District & Sessions Judge (1 st Court Siliguri)	Misc. case No.9/2019 Smt. Shweta Agarwal Vs Sri Gaurav Garg	Application filed by Shweta Agarwal for Pendentelite maintenance	26.9.22	For cross of PW-1	
10	Addl. District & Sessions Judge (1 st Court Siliguri)	Mat Suit No.60(2)/18 Smt Shweta Agarwal Vs Shri Gaurav Garg	An application filed by Shweta for dissolution of marriage by decree of divorce	Decree passed and marriage dissolved on 24/1/2023		
11	ACJM (Personal File) at Siliguri	G.R. Case No.2636/16 Siliguri PS Case No.718/16 State Vs Shri Gaurav Garg.				

6) The civil cases shall stand withdrawn and the criminal proceedings shall stand quashed.

7) Whatever certificates of the respondent/wife are with the petitioner/husband, it is assured that they will be returned to the respondent/wife.

We hope that the parties will adopt more cooperative attitude for the purposes of the child even though they have not been able to live together.

The transfer petitions and the appeal stand disposed of.

.....J.
[SANJAY KISHAN KAUL]

.....J.
[SUDHANSHU DHULIA]

NEW DELHI,
SEPTEMBER 22, 2023.

ITEM NO.1

COURT NO.2

SECTION II-B

**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(s)(Criminal) No(s). 491-498/2021

GAURAV GARG

Petitioner(s)

VERSUS

SHWETA AGARWAL & ORS.

Respondent(s)

(Mediation report received.)

IA No. 127365/2021 - EXEMPTION FROM FILING O.T.

IA No. 127364/2021 - STAY APPLICATION)

WITH

T.P.(C) No. 2528-2530/2021 (XVI)

(FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES ON IA 25858/2022

IA No. 25858/2022 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

SLP(C) No. 20818/2022 (XVI)

T.P.(C) No. 2429/2022 (XVI)

Date : 22-09-2023 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL

HON'BLE MR. JUSTICE SUDHANSHU DHULIA

For Petitioner(s) Mr. Varinder Kumar Sharma, AOR

Mr. Prashant Bhushan, Adv.

Mr. Radhakrishna S Hegde, Adv.

Mr. Varun Mishra, AOR

Ms. Alice Raj, Adv.

Mr. Amit Sinha, Adv.

Mr. Digant Mishra, Adv.

Mr. Anshul Agarwal, Adv.

Mr. Awadhesh Kumar, Adv.

For Respondent(s) Ms. Vibha Datta Makhija, Sr. Adv.

Ms. Pinky Behera, AOR

Mr. Praveen Gaur, Adv.

Mr. Edward Belho, Adv.

Mr. Davies, Adv.

Ms. Muskan Surana, Adv.

Ms. Ripul Swati Kumari, Adv.

Ms. Astha Sharma, AOR

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

Leave granted in the Special Leave Petition.

The transfer petitions and the appeal stand disposed of in terms of the signed order.

Pending applications stand disposed of.

[CHARANJEET KAUR]
ASTT. REGISTRAR-cum-PS

[POONAM VAID]
COURT MASTER (NSH)

[Signed order is placed on the file]