Court No. - 17

Case :- TRANSFER APPLICATION (CIVIL) No. - 5 of 2023

Applicant :- Swati Sirohi
Opposite Party :- Sachin Mittal
Counsel for Applicant :- Km. Vishwa Mohini,Prashant Kumar,Vimal Kumar

Hon'ble Alok Mathur,J.

1. Heard Km. Vishwa Mohini, learned counsel for the applicant.

2. Notice issued to respondent has been duly received by the family members of respondent and accordingly Office has reported that service upon respondent is sufficient. Despite service of notice no one has put in appearance on behalf of respondent.

3. In the aforesaid circumstances, this Court proceeds to dispose of the present applicant finally.

4. By means of present transfer application under Section 24 CPC, the applicant has sought transfer of Divorce Petition No. 1233 of 2022 - Sachin Mittal Vs. Swati Sirohi, pending before Principal Judge, Family Court, Lucknow to the Court of competent jurisdiction at Ghaziabad.

5. It is submitted by learned counsel for the applicant that applicant was married to respondent on 08.03.2018 as per Hindu rites and rituals. Soon after the marriage the respondent as well as his family members started harassing and torturing the applicant for getting less dowry and made demand for same. The husband of applicant i.e. the respondent left to Hyderabad in 2018 alongwith applicant and while at Hyderabad the brother-in-law of applicant tried to sexually assault the applicant and was also thrown out of her matrimonial home on 16.11.2020, due to which she started living with her parents at Ghaziabad. At Ghaziabad the applicant lodged first information report against respondent and his family members being Case Crime No.0602 of 2022, under Sections 498A, 323, 504, 506, 354, 420 IPC and Section 3/4 of Dowry Prohibition Act at Police Station - Vijay Nagar, District - Ghaziabad.

6. In the aforesaid circumstances the respondent instituted a suit for divorce under Section 13 of the Hindu Marriage Act before the Principal Judge, Family Court, Lucknow being Divorce

Petition No. 1233 of 2022 - Sachin Mittal Vs. Swati Sirohi and accordingly prayer for transfer of said case from Lucknow to the Court of competent jurisdiction at Ghaziabad has been made.

7. Learned counsel for the applicant has also relied upon the case of **N.C.V. AISHWARYA versus A.S. SARAVANA KARTHIK SHA, 2022 Live law (SC) 627** specially on paragraph Nos. 9 and 10 which read as under:-

"*9. The cardinal principle for exercise of power under Section 24 of the Code of Civil Procedure is that the ends of justice should demand the transfer of the suit, appeal or other proceeding. In matrimonial matters, wherever Courts are called upon to considerthe plea of transfer, the Courts have to take into consideration the economic soundness of both the parties, the social strata of the spouses and their behavioural pattern, their standard of life prior to the marriage and subsequent thereto and the circumstances of both the parties in eking out their livelihood and under whose protective umbrella they are seeking their sustenance to life. Given the prevailing socioeconomic paradigm in the Indian society, generally, it is the wife?s convenience which must be looked at while considering transfer.*

10. Further, when two or more proceedings are pending in different Courts between the same parties which raise common question of fact and law, and when the decisions in the cases are interdependent, it is desirable that they should be tried together by the same Judge so as to avoid multiplicity in trial of the same issues and conflict of decisions."

8. It is noticed that soon after marriage the applicant was tortured on account of less dowry and there are allegations of sexual assault when she went to live with her husband at Hyderabad. She was thrown out of her matrimonial house, due to which she started living with her parents at Ghaziabad, where she lodged first information report against respondent and his family members being Case Crime No.0602 of 2022, under Sections 498A, 323, 504, 506, 354, 420 IPC and Section 3/4 of Dowry Prohibition Act at Police Station - Vijay Nagar, District - Ghaziabad. It is stated that applicant has no independent source of income and is dependent upon her parents for financial needs. It is submitted that applicant being a lady who has no independent source of income, it is not possible for her to prosecute the case at Lucknow on each date of hearing. Hence prayer for transfer of said case from Lucknow to Ghaziabad has been made.

9. This Court finds that there are sufficient reasons for transfer

of the case from the Family Court, Lucknow to the Court of competent jurisdiction at Ghaziabad. It is also noticed that applicant is a lady and has no independent source of income which makes it difficult for her to attend the hearing on each date of hearing at Lucknow. In view of above as well as in the light of judgment of Apex Court in the case of **N.C.V. AISHWARYA versus A.S. SARAVANA KARTHIK SHA** (supra), Divorce Petition No. 1233 of 2022 - Sachin Mittal Vs. Swati Sirohi, pending before Principal Judge, Family Court, Lucknow, stands transferred to the Court of competent jurisdiction at Ghaziabad.

10. The transfer application stands **allowed**.

Order Date :- 18.11.2023
A. Verma

(Alok Mathur, J.)

Digitally signed by :-
ANURAG VERMA
High Court of Judicature at Allahabad,
Lucknow Bench