

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

Crl. Misc. No. M-33283 of 2013 (O&M)
Date of decision : 10.02.2015

Kanchan Bala

....Petitioner

versus

Esha Dhanda (minor) through her father Vivek Kumar

...Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. R.K. Saini, Advocate, for the petitioner

Mr. J.S. Brar, Advocate
for the respondent

RITU BAHRI , J. (Oral)

Prayer in this petition is for transfer of the petition bearing No. 5 dated 17.05.2013 for grant of maintenance under Section 125 Cr.P.C filed by respondent-Esha Dhanda through her father in the Court of learned Civil Judge (Jr. Divn.)-cum-Judicial Magistrate Ist Class, Kharar to the competent Court at Samrala.

The marriage between the petitioner and Vivek Kumar was solemnized on 25.01.1998 according to Hindu rites and ceremonies at Samrala. Out of this wedlock, one female child namely Esha-respondent was born on 22.03.1999 who is now in the custody of Vivek Kumar and one son namely Arman was born on 28.06.2009 and is now in the custody of the petitioner.

Learned counsel for the petitioner submits that one complaint under the Domestic Violence Act filed by the

petitioner against her husband is pending in the Court of ACJ (Sr. Divn.) Samrala, District Ludhiana , so the petition for grant of maintenance be transferred to the competent Court at Samrala.

On the other hand, learned counsel for the respondent has informed the Court that the complaint under Domestic Violence Act has been dismissed and an appeal against that order is pending before ADJ, Ludhiana.

It has further been informed that husband of the petitioner i.e Vivek Kumar has filed a petition under Section 13 of the Hindu Marriage Act, which was later on withdrawn by him from the Court of District Judge, Chandigarh.

A petition has been filed by the respondent through her father for grant of maintenance under Section 125 Cr.P.C for an amount of Rs.5000/- per month and Rs.20,000/- as litigation expenses, which is pending in the Court of learned Judicial Magistrate, 1st Class, Kharar (P-1).

Learned counsel for the petitioner submits that two cases are already pending in the Court at Samrala filed by the petitioner and her son namely Arman and thus, the petition bearing No. 5 dated 17.05.2013 for grant of maintenance under Section 125 Cr.P.C filed by respondent be also transferred to Samrala so that both the petitions be heard together.

On the other hand, learned counsel for the respondent has argued that as per voter copy list (R-1), the petitioner is a permanent resident of H. No. 210, Ambedkar Avas Yozna, Palsora, Sector 56, Chandigarh and is living with her

parents. As per salary slip, she is getting net pay of Rs.44,672/- being Staff Nurse Gr-II, PGI, Chandigarh and it is not possible that she daily comes from Samrala to Chandigarh.

Reference at this stage can be made to the identity card in the name of the son of the petitioner which shows that he is a student of nursery class in Kinder Garten & Sen. Secondary School, Khanna Road, Samrala and is residing at Kamal Colony, Samrala (P-5&6). The certificate issued by the School further shows that the son of the petitioner is studying in Kinder Garten & Sen. Secondary School, Khanna Road, Samrala (P-7).

Keeping in view the fact that the son of the petitioner is studying in Samrala and the two petitions are already pending at Samrala, the present petition stands allowed and direction is being given that petition bearing No. 5 dated 17.05.2013 for grant of maintenance under Section 125 Cr.P.C be transferred to the Court at Samrala so that both the petitions be clubbed together and heard together.

10.02.2015
G Arora

(RITU BAHRI)
JUDGE