

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

TA No. 498 of 2012 (O&M)

Date of decision : 15.5.2015

Luxmi Devi

... Applicant

vs

Ajay Kumar Parocha

.... Respondent

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. R. V. S. Chugh, Advocate, for the applicant.

Mr. Mukesh Garg, Advocate, for the respondent.

Rajesh Bindal J.

Prayer in the present application is for transfer of petition titled as “Ajay Parocha vs Luxmi @ Moona” filed by the respondent /husband against the applicant-wife under Section 13 of the Hindu Marriage Act, 1955 (for short, 'the Act') for divorce from the Court of learned Additional District & Sessions Judge, Sangrur to the court of competent jurisdiction at Mansa.

Learned counsel for the applicant submitted that marriage of the applicant was solemnised with the respondent according to Sikh rites on 1.11.2009. One son now aged about four years was born out of the wedlock. After she was turned out from the matrimonial home, she is residing at her parental house at Budhlada. She is living at the mercy of her parents. The respondent-husband is attending the proceedings in the petition under Section 9 of the Act filed by the wife at Mansa. The respondent has filed the petition for divorce at Sangrur only to harass her and her family members. She has no source of income. It was submitted that it is very difficult for the applicant to attend court proceedings by travelling 70 kilometers from Budhlada to Sangrur. There is no one in the family to accompany her to attend the court proceedings at Sangrur. It is the convenience of the wife which is to be seen. As the husband is already attending the aforesaid case at Mansa, it will not be difficult for him to attend these proceedings at Mansa. Considering the aforesaid facts, the petition filed by the husband at Sangrur be transferred to the Court of competent Jurisdiction at Mansa.

On the other hand, learned counsel for the respondent denied the allegations levelled in the application against him. The respondent is working as Labourer. After the marriage due to the ill behaviour of the applicant wife, all his family members are living separate from him. Four years son is living with him. There is nobody in the family to look after the minor son. He stated that the applicant wife moved representations to the police several times on false allegations of demand of dowry against the respondent and his family members. He further submitted that if the case is transferred at Mansa, he may be implicated in some case by the applicant wife or her family members. He further submitted that the wife has filed the petition under Section 9 of the Act at Mansa only to harass the respondent, whereas she could file the same at Budhlada. When she can go to Mansa, which is about 25 kilometers from Budhlada, she can also appear at Sangrur.

Heard learned counsel for the parties and perused the paper book.

It is not in dispute that child born out of the wedlock of the parties is living with the respondent at Moonak, who is working as Labourer. He is taking care of the minor son. The respondent has filed the petition under Section 13 of the Act for divorce, which is pending at Sangrur, of which the applicant wife has sought transfer from Sangrur to Mansa. The respondent husband is appearing at Mansa in the petition under Section 9 of the Act. It is also not in dispute that she has filed petition under Section 9 of the Act for restitution of conjugal rights at Mansa, whereas she is residing at Budhlada with her parents. Budhlada is a Sub-Division, where subordinate courts exist. She could file the same at Budhlada, despite this she has filed the same at Mansa. When she can appear in the Court located at Mansa at her own, which is about 25 kilometers from her residence, she can also appear in the Court at Sangrur where the petition under Section 13 of the Act is pending.

For the reasons mentioned above, the application is dismissed.

15.5.2015
vs.

(Rajesh Bindal)
Judge