

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

TA-109-2013 (O&M)

Date of decision: 27.11.2015

Babita

...Petitioner

Versus

Amit Kumar

...Respondent

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.Salim Ahmed, Advocate for the petitioner

Mr.Parminder Singh, Advocate for the respondent

SNEH PRASHAR, J.

The present petition under Section 24 of the Code of Civil Procedure has been filed by petitioner-wife seeking transfer of petition under Section 13(1)(ia) of the Hindu Marriage Act (for short 'the Act') titled as "Amit Kumar vs. Babita" filed by respondent-husband from the court of learned Additional District Judge, Karnal to the court of competent jurisdiction at Palwal.

Reply filed on behalf of the respondent is taken on record.

The submissions made by learned counsel for the parties have been considered.

It is submitted by learned counsel for the petitioner that

the marriage between the parties was solemnized on 22.5.2011 according to Hindu rites and ceremonies at Palwal. After marriage, she was treated with cruelty by the respondent-husband and his family members and ultimately she was thrown out of the matrimonial home and is since residing with her parents at Palwal. The petition for dissolution of marriage by way of decree of divorce has been filed by the respondent-husband as a counter blast to the application moved by the petitioner-wife under Section 12 of the Protection of Women from Domestic Violence Act, 2005. Submitting that the petitioner has no regular independent source of income and is residing at the mercy of her parents, learned counsel prayed for transfer of the petitioner from Karnal to Palwal.

Learned counsel for the respondent resisted the prayer of the petitioner on the ground that she had left the conjugal company of the respondent of her own will and enjoys good health for travelling from one place to another.

The settled principle of law is that convenience of the wife is to be seen in the matters filed by the husband against the wife as held by the Hon'ble Supreme Court in **Sumita Singh vs. Kumar Sanjay and another, AIR 2002 SC 396, Neelam Kanwar vs Devinder Singh Kanwar, 2001(1) M.L.J. 509 (SC), and Mangla Patil Kale vs. Sanjeev Kumar (2003) 10 SCC 280.**

In the instant case, because of marital discord, the

petitioner is stated to be residing with her parents at Palwal. She is having no source of income. Invariably, in a dispute between the husband and the wife, normally the wife is at the receiving end. It would indeed, be very difficult for the petitioner to travel from Palwal to Karnal to attend the hearings in the court and the expenses for travelling will also be an additional financial burden on her.

In the above premises, the instant transfer petition is allowed. Petition under Section 13(1)(ia) of the Act titled as “Amit Kumar vs. Babita” is withdrawn from the Court of learned Additional District Judge, Karnal and is transferred to the court of competent jurisdiction at Palwal. The District & Sessions Judge, Palwal will either keep the petition himself/ herself or will entrust the same to any other court of competent jurisdiction at Palwal. The complete record pertaining to the case in question shall be sent by the trial Court at Karnal to the learned District Judge, Palwal within two weeks from the date of receipt of a copy of this order.

The parties shall appear before the District Judge, Palwal on 12.01.2016.

27.11.2015
gsv

(SNEH PRASHAR)
JUDGE