

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

TA No.362 of 2013.

Date of Decision: 18.08.2015.

Amardeep Kaur

....Petitioner.

VERSUS

Gurprit Singh

....Respondent.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. A.S. Bhatti, Advocate for the petitioner.

Mr. Harish David, Advocate for
Mr. Surinder Sharma, Advocate for the respondent.

SNEH PRASHAR, J.

This is a petition under Section 24 of the Code of Civil Procedure (for short, "C.P.C.") seeking transfer of the petition filed under Section 25 of the Guardian and Wards Act, 1890 (for short, "the Act of 1890") by the respondent, from the court of Civil Judge (Senior Division), Amritsar to the court of competent jurisdiction at Dasuya, District .Hoshiarpur.

The submissions made by learned counsel representing the

petitioner and learned counsel representing the respondent have been heard.

From the pleadings of the petitioner-wife, it transpires that the petitioner was married to the respondent on 07.04.2008 as per Sikh rites and ceremonies at village Dhadar, District Hoshiarpur and a son namely, Damanprit Singh was born out of their wedlock on 21.12.2008. Being unsatisfied with the dowry given by the parents of the petitioner at the time of marriage, the respondent and his family members started harassing and maltreating her and ultimately on 17.11.2011 she was thrown out of the matrimonial house and now she alongwith her son was living with her parents at Dasuya, District Hoshiarpur.

It was submitted on behalf of the petitioner that on a complaint filed by her, First Information Report under Section 498-A/406 of the Indian Penal Code (for short, "I.P.C.") was registered against the respondent and his family members at Police Station Dasuya. She also filed a petition claiming maintenance under Section 125 of the Code of Criminal Procedure (for short, "Cr.P.C."). The respondent has since filed a petition under Section 25 of the Act of 1890 for custody of minor son namely Damanprit Singh, which is pending adjudication in the court of Civil Judge (Senior Division), Amritsar. Submitting that the petitioner is a lady and because of financial and physical difficulties, it is inconvenient for her to travel alone alongwith the minor child from Dasuya, District Hoshiarpur to Amritsar on every date of hearing and her father is an aged person, learned counsel sought transfer of the petition filed under Section 25 of the Act of 1890 pending before Civil Judge (Senior Division), Amritsar to Dasuya,

District Hoshiarpur.

Learned counsel for the respondent resisted the application on the ground that the petitioner had herself left the conjugal company of the respondent of her own volition and enjoys good health for travelling from one place to other.

Admittedly, the petitioner alongwith her minor son is presently residing with her parents at village Dhadar, Tehsil Dasuya, District Hoshiarpur. She is stated to be living separate from the respondent since 17.11.2011 and fears threat precept in travelling alone with the minor child. The expenses for travelling will also be an additional financial burden on her. The petition under Section 125 Cr.P.C. and the complaint under the Protection of Women from Domestic Violence Act, 2005 filed against the respondent are already pending at Dasuya. It has been held in ***Sumita Singh vs. Kumar Sanjay and another, AIR 2002 (SC) 396*** and ***Neelam Kanwar vs. Devinder Singh Kanwar, 2000(8) SCC 184*** that convenience of the wife has to be taken into consideration in such like matters. The aforesaid state of facts indicate that the distance between Dasuya and Amritsar is about 80 kilometers and it will be inconvenient/difficult for the petitioner to travel with the minor child from village Dhadar, Tehsil Dasuya, District Hoshiarpur to Amritsar.

Accordingly, the petition filed by the respondents under Section 25 of the Act pending in the court of learned Civil Judge (Senior Division), Amritsar is withdrawn from the said court and is transferred to the court of competent jurisdiction at Hoshiarpur. The file shall be sent by

the trial court to the court of District and Sessions Judge, Hoshiarpur within two weeks from the date of receipt of copy of this order, who will either keep the petition himself or will entrust the same to any other court of competent jurisdiction at Dasuya, District Hoshiarpur in case power has been delegated to the Civil Judge, Dasuya.

The parties are directed to appear before the District Judge, Hoshiarpur on 22.09.2015.

(SNEH PRASHAR)
JUDGE

18.08.2015.
jitender