

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

TA No.374 of 2013.

Date of Decision: 08.09.2015.

Simarjit Kaur

....Petitioner.

VERSUS

Avtar Singh

....Respondent.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Amit Saini, Advocate for the petitioner.
Mr. S.K. Sandhir, Advocate for the respondent.

SNEH PRASHAR, J.

This petition under Section 24 of the Code of Civil Procedure (for short, "C.P.C.") seeking transfer of the petition filed under Section 13-A of the Hindu Marriage Act, 1955 (for short, "the Act of 1955") by respondent-husband from the Court of Additional District Judge, Ludhiana to the Court of competent jurisdiction at Chandigarh, was filed by petitioner-wife Smt. Simarjit Kaur.

The submissions made by learned counsel representing the petitioner and learned counsel representing the respondent have been heard.

It is not disputed that the petitioner is legally wedded wife of the respondent and that due to marital discord they are residing separately. The petitioner submitted that after three months of marriage she was turned out of the matrimonial home and since then is residing at Chandigarh. In May, 2013 a petition under Section 13-A of the Act of 1955 for grant of decree of divorce had been filed by the respondent which is pending in the

Court of Additional District Judge, Ludhiana. The said petition had been filed with a malafide intention to harass her. Even in that petition her address has been mentioned by the respondent as that of Chandigarh. Submitting that it is difficult for the petitioner to travel from Chandigarh to Ludhiana to defend the petition filed by the respondent and that a criminal case registered on her complaint and a petition under Section 125 of the Code of Criminal Procedure filed by her for claiming maintenance allowance are already pending at Chandigarh, a prayer has been made to transfer the petition under Section 13-A of the Act of 1955 pending in the Court of Additional District Judge, Ludhiana to some other Court of competent jurisdiction at Chandigarh.

Opposing the submissions of the petitioner, learned counsel for the respondent argued that the petitioner is presently residing in Australia and comes to India after different intervals, that too for only short period. When she is not residing at Chandigarh, she has no cause of action to file the present petition for transfer of the petition from Ludhiana to Chandigarh.

On the other hand, learned counsel for the petitioner submitted that the petitioner is likely to return from Australia within a period of 15 days and thereafter she will be residing at Chandigarh and has no programme to go back to Australia.

Alongwith this petition, copy of the petition under Section 13-A of the Act of 1955 filed by the respondent has been annexed. Perusal of the same shows that the respondent has filed the petition through his father-

General Power of Attorney holder, the reason of which has not been explained in the reply. In any case, as submitted by learned counsel, the petitioner will return from Australia after about 15 days and thereafter will be residing at Chandigarh. The criminal case registered on her complaint and the petition for maintenance filed by her are already pending at Chandigarh. 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 distance between Ludhiana and Chandigarh is about 100 kilometers. It will indeed be difficult for the petitioner to travel such long distance to defend the petition.

Accordingly, in view of the facts discussed above, the petition filed by the respondent under Section 13-A of the Act of 1955 pending in the Court of learned Additional District Judge, Ludhiana is withdrawn from the said Court and is transferred to the Court of competent jurisdiction at Chandigarh. The file shall be sent by the trial Court to the Court of District and Sessions Judge, Chandigarh within two weeks from the date of receipt of copy of this order, who will either keep the petition himself/ herself or will entrust the same to any other Court of competent jurisdiction at Chandigarh.

The parties are directed to appear before the District and Sessions Judge, Chandigarh on 06.10.2015.

(SNEH PRASHAR)
JUDGE

08.09.2015.
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