

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

TA No.498 of 2013.

Date of Decision: 01.10.2015.

Seema Saini

....Petitioner.

VERSUS

Rakesh Kumar Saini

....Respondent.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Pawan Gaur, Advocate for the petitioner.

None for the respondent.

SNEH PRASHAR, J.

This is a petition by the petitioner-wife Smt. Seema Saini under Section 24 of the Code of Civil Procedure seeking transfer of the petition filed under Section 13 of the Hindu Marriage Act, 1955 (for short, “the Act of 1955”) by respondent-husband from the Court of District Judge (Family Court), Gurgaon to the Court of competent jurisdiction at Palwal.

Despite due service of notice of the petition on the respondent, he did not opt to appear and contest the same.

The submissions made by Mr. Pawan Gaur, learned counsel representing the petitioner have been considered.

It is submitted on behalf of the petitioner that she was married to the respondent on 11.07.2008 as per Hindu rites and ceremonies. After marriage, she was treated with cruelty by the respondent-husband and his

family members and was ultimately thrown out of the matrimonial home and is residing with her parents. A male child was born out of the wedlock. Having faced cruelties at the hands of the respondent and his family members, she lodged a complaint with the police on which First Information Report no.43 dated 15.07.2013 under Section 406/498-A/323/504/506/34 of the Indian Penal Code was registered against the respondent and his family members at Police Station Hodal. She also filed a petition claiming maintenance under Section 125 of the Code of Criminal Procedure against the respondent which is also pending at Hodal, District Palwal. Respondent has since instituted a petition under Section 13 of the Act of 1955, which is pending adjudication in the Court of District Judge (Family Court), Gurgaon. Submitting that the petitioner has no independent source of income and alongwith her minor child is residing at the mercy of her parents, learned counsel sought transfer of the petition from Gurgaon to Palwal.

Presently, the petitioner alongwith her minor child is residing with her parents at Hodal, District Palwal. Two cases arising out of the marital discord between the parties are already pending at Hodal, District Palwal. The distance between Palwal and Gurgaon is about 90-100 kilometers. It will indeed be difficult for the petitioner to attend the hearings before the Court by travelling such a long distance alongwith the minor child and the expenses for travelling will also be an additional financial burden on her. 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.

Accordingly, considering the facts discussed above, the petition filed by the respondent under Section 13 of the Act of 1955 pending in the Court of learned District Judge (Family Court), Gurgaon is withdrawn from the said Court and is transferred to the Court of competent jurisdiction at Palwal. The file shall be sent by the trial Court to the Court of District and Sessions Judge, Palwal 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 Palwal.

The parties are directed to appear before the District Judge, Palwal on 16.11.2015.

(SNEH PRASHAR)
JUDGE

01.10.2015.
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