

IN THE HIGH COURT OF PUNJAB AND HARYANA AT

CHANDIGARH

TA-637-2013

Date of Decision: July 3, 2015

Suman

...Petitioner

Versus

Baldev Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr. Kiran Kumar, Advocate,
for the petitioner.

None for the respondent.

1. *Whether Reporters of local papers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the Digest?*

NARESH KUMAR SANGHI, J (Oral)

Present petition, under Section 24 of the Code of Civil Procedure, 1908, has been filed with a prayer to transfer the case, titled as “Baldev Singh v. Suman”, filed by the respondent-Baldev Singh, under Section 9 of the Hindu Marriage Act, 1955, from the Court of learned Civil Judge (Senior Division) Amritsar, to a Court

of competent jurisdiction at Jalandhar.

Learned counsel contends that the marriage of the petitioner with the respondent was solemnized on 27.2.2007, at village Partapura, District Jalandhar, as per Sikh rites and ceremonies. Two children had taken birth out of the said wedlock and both of them (minor children) are residing with the petitioner at Jalandhar. Due to incompatible behaviour, it was not possible for the petitioner to live any more with the respondent/husband and she (petitioner) alongwith her minor children, was thrown out of the matrimonial house by the respondent/husband and his family members. The petitioner and her minor children had no option but to take shelter at the house of her father at Jalandhar. She filed a petition under Section 125, Cr.P.C., for grant of maintenance.

Despite service, the respondent/husband did not appear and, as such, the proceedings under Section 125, Cr.P.C., were proceeded against him *ex parte*. The maintenance was granted in favour of the petitioner. When the respondent/husband failed to pay the maintenance, then warrants for his arrest were issued and he was arrested and put behind the bars. In spite of that he did not pay the maintenance.

To counter the facts narrated in the application under Section 125, Cr.P.C., filed by the petitioner, a petition under Section

9 of the Hindu Marriage Act, 1955, was filed by the respondent/husband at Amritsar.

The petitioner has no means to go to Amritsar from Jalandhar on each and every date of hearing to defend the case filed by her husband.

Despite service no one has proposed to put an appearance on behalf of the respondent/husband in the present petition and, as such, this Court has no option but to decide the present petition in his (respondent) absence.

The contentions raised by learned counsel for the petitioner clearly spell out that it is a fit case where direction should be issued for transfer of the case mentioned in the opening para of this order, from Amritsar to Jalandhar.

In the matter of **Sumita Singh v. Kumar Sanjay and another**, AIR 2002 SC 396, Hon'ble the Supreme Court while dealing with the petition under Section 24, CPC, for transfer of a matrimonial case held that "*it is the wife's convenience that must be looked at*". In **Jitender Kaur v. Manpreet Singh** (TA No. 263 of 2009, decided on 25.11.2009), a Co-ordinate Bench of this Court held that in terms of Section 21-A of the Hindu Marriage Act, 1955, all proceedings under the said Act have to be tried by the same Court, therefore, a petition under Section 13 of the Hindu Marriage

Act filed by the respondent has to be tried by the same court which is seized of earlier proceedings under Section 9 of the Act.

Similar view was taken in the matters of **Annu Arora v. Rakesh Kumar** (TA No. 648 of 2011, decided on 16.12.2011); **Bupinder Kaur v. Inderpreet Singh** (TA No. 616 of 2011, decided on 09.05.2012) and **Leena Kalra @ Lovely v. Parveen Kumar** (TA No. 381 of 2014, decided on 30.03.2015).

Keeping in view the factual and legal aspects of the case, the case titled as “Baldev Singh v. Suman”, filed by the respondent-Baldev Singh, under Section 9 of the Hindu Marriage Act, 1955, in the Court of learned Civil Judge (Senior Division) Amritsar, is transferred to the Board of learned Civil Judge (Senior Division) Jalandhar, for trial in accordance with law. Learned Civil Judge (Senior Division) Jalandhar, may retain the case on his own Board or assign the same to any other Court of competent jurisdiction within Sessions Division, Jalandhar.

Learned Civil Judge (Senior Division) Amritsar, shall send the complete record of the case “Baldev Singh v. Suman”, filed by the respondent-Baldev Singh, under Section 9 of the Hindu Marriage Act, 1955, to the office of learned Civil Judge (Senior Division) Jalandhar, immediately.

The parties to the *lis* are directed to appear before

learned Civil Judge (Senior Division) Jalandhar, on 5.8.2015, at
10:00 a.m., for further proceedings.

The present petition stands disposed.

(NARESH KUMAR SANGHI)
JUDGE

July 3, 2015
Pkapoor