

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

TA No.640 of 2013.

Date of Decision: 28.11.2015.

Sarita Devi

....Petitioner.

VERSUS

Raj Kumar

....Respondent.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Anshuman Dalal, Advocate for
Mr. S.N. Yadav, Advocate for the petitioner.

Mr. Johan Kumar, Advocate for the respondent.

SNEH PRASHAR, J.

Invoking the provisions of Section 24 of the Code of Civil Procedure petitioner-wife Smt. Sarita Devi seeks transfer of the petition filed under Section 13(1)(ia) of the Hindu Marriage Act, 1955 (for short, “the Act of 1955”) by respondent-husband from the Court of learned District Judge, Panchkula to the Court of competent jurisdiction at Rohtak.

The submissions made by Mr. Anshuman Dalal, learned counsel representing the petitioner and Mr. Johan Kumar, learned counsel representing the respondent have been heard.

It is submitted on behalf of the petitioner that she was married to the respondent on 23.03.1994. 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 since 04.04.2012 is

residing with her mother at Rohtak. She filed a petition claiming maintenance under Section 125 of the Code of Criminal Procedure and a complaint under Section 12 of the Protection of Women from Domestic Violence Act, 2005 which are pending at Rohtak. Respondent has since instituted a petition under Section 13(1)(ia) of the Act of 1955, which is pending adjudication before District Judge, Panchkula. Submitting that the petitioner is a poor lady and has no source of income and is residing at the mercy of her brother, learned counsel sought transfer of the petition to Rohtak.

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 volition and enjoys good health for travelling from one place to another.

Admittedly, the petitioner is residing with her mother at Rohtak. Two cases arising out of marital discord between the parties are already pending at Rohtak in which the respondent must be appearing. The distance between Panchkula and Rohtak is about 260 kilometers. It will indeed be difficult for the petitioner, being a poor lady dependant on her mother, to travel such long distance to attend the hearings before the Court at Panchkula. The expenses on 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(1)(ia) of the Act of 1955 pending in the Court of learned District Judge, Panchkula is withdrawn from the said Court and is transferred to the Court of competent jurisdiction at Rohtak. The file shall be sent by the trial Court to the District and Sessions Judge, Rohtak 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 Rohtak.

The parties are directed to appear before the District Judge, Rohtak on 12.01.2016.

(SNEH PRASHAR)
JUDGE

28.11.2015.
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