

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

TA-705-2013

Date of Decision: July 28, 2015

POOJA RANI

....PETITIONER

VS

SANDEEP AWASTHI

.....RESPONDENT

CORAM: HON'BLE MR.JUSTICE NARESH KUMAR SANGHI

Present: Mr. Amit Gupta, Advocate, for
Mr. Vipin Mahajan, Advocate
for the petitioner.

Mr. Veneet Sharma, Advocate
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)

Prayer in this petition filed under Section 24 read with Section 151 of Civil Procedure Code (for brevity 'CPC') is for transfer of the petition titled as "Sandeep Awasthi Vs. Pooja Rani" filed under Section 13 of Hindu Marriage Act, 1955 from the Court of learned Additional District Judge Amrtisar to a Court of competent jurisdiction at Gurdaspur.

Learned proxy counsel for the petitioner contends that petitioner-wife has a minor child of 3 years with her; there is no adult male member in her parental family except her father, who is unable to accompany her to Amritsar on each and every date from Batala where she is residing; a petition under Section 125 of Criminal Procedure Code has been filed by the petitioner at Batala and that she has no resources to go to Amritsar on each date of hearing to defend the case filed by the respondent-husband.

On the other hand, learned counsel for the respondent submits that the petitioner is residing at Batala Amritsar as well as Gurdaspur are at equal distance from Batala and as such she has no hardship in going to Amritsar to attend the case.

I have heard learned counsel for the parties and with their able assistance gone through the material available on record in the matter.

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), **Leena Kalra @ Lovely v. Parveen Kumar** (TA No. 381 of 2014, decided on 30.03.2015) and **Suman v. Baldev Singh** (TA No.637 of 2013, decided on 03.07.2015)

In view of the fact that the petitioner is a woman; has a child of 3 years with her; as per her learned counsel, she has no resources after she came to her parental house at Batala; there is no other male member except her father to accompany her to Amritsar on each and every date of hearing to defend the case filed by the respondent-husband and that the distance from Batala to Amritsar is about 80 kilometers, the petition titled as “Sandeep Awasthi Vs. Pooja Rani” is transferred from the Court of learned Additional District Judge, Amritsar to the Board of learned District Judge, Gurdaspur.

The learned District Judge, Gurdaspur may either retain the case on his own Board or assign the same to any other

Court of competent jurisdiction within Sessions Division, Gurdaspur. Learned Additional District Judge, Amritsar is directed to send the complete record of the case to the transferee Court immediately.

The parties to the *lis* shall appear before learned District Judge, Gurdaspur on 28.08.2015 at 10:00 am, for further proceedings.

Disposed of accordingly.

July 28, 2015
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(NARESH KUMAR SANGHI)
JUDGE