

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

TA No.171 of 2015.

Date of Decision: 27.11.2015.

Shivani

....Applicant.

VERSUS

Rinku

....Respondent.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Ms. Rajwinder Kaur, Advocate for the applicant.

None for the respondent.

SNEH PRASHAR, J.

This petition under Section 24 of the Code of Civil Procedure was filed by Smt. Shivani-wife, 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 learned District Judge, Sri Muktsar Sahib to the Court of competent jurisdiction at Barnala.

Respondent was served for 10.07.2015 and thereafter the case was adjourned twice but the respondent has not appeared till date.

The submissions made by learned counsel representing the applicant have been considered.

It is submitted on behalf of the applicant that she was married to the respondent on 29.10.2011 as per Hindu rites and ceremonies. After marriage, she was treated with cruelty by the respondent-husband and his

family members and ultimately on 20.12.2011 was turned out of the matrimonial home and since then is residing with her mother. A male child was born out of the wedlock who is in her care and custody. She filed a petition claiming maintenance under Section 125 of the Code of Criminal Procedure which is pending at Barnala. Respondent filed a petition under Section 9 of the Act of 1955 in the Court of Additional Civil Judge (Senior Division), Malout which vide order dated 10.10.2013 passed in Transfer Application No.653 of 2012, filed by the applicant, was transferred to Barnala. However, the respondent withdrew that petition. Respondent has since filed a petition under Section 13 of the Act of 1955, which is pending adjudication in the court of learned District Judge, Sri Muktsar Sahib. Submitting that the applicant is a poor lady and has no independent source of income and is residing at the mercy of her mother, learned counsel sought transfer of the petition to Barnala.

Presently, the applicant alongwith her minor child is residing with her parents at Barnala. One case arising out of the marital discord between the parties is already pending at Barnala. The distance between Barnala and Sri Muktsar Sahib is about 100 kilometers. The applicant also has a minor son. So, it will indeed be difficult for her to travel such a long distance alongwith the minor child to attend the hearings at Sri Muktsar Sahib 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, Sri Muktsar Sahib is withdrawn from the said Court and is transferred to the Court of competent jurisdiction at Barnala. The file shall be sent by the trial Court to the District and Sessions Judge, Barnala 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 Barnala.

The parties are directed to appear before the District Judge, Barnala on 11.01.2016.

(SNEH PRASHAR)
JUDGE

27.11.2015.
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