

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

TA-213-2015

Date of Decision: July 20, 2015

PARAMJIT

....PETITIONER

VS

GURDIAL CHAND

.....RESPONDENT

CORAM: HON'BLE MR.JUSTICE NARESH KUMAR SANGHI

Present: Mr. Amit Verma, Advocate,
for the petitioner.

Mr. Amit Gupta, Advocate
for the respondent.

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

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 case titled as "Gurdial Chand vs. Paramjit" filed under Section 9 of Hindu Marriage Act, 1955 from the Court of learned Civil Judge (Senior Division) Gurdaspur to a Court of competent jurisdiction at Mukerian, District Hoshiarpur.

Learned counsel for the petitioner submits that due to harsh nature of the respondent-husband, it was not possible for the

petitioner-wife to pull any more with him and as such she had to leave her matrimonial house at Gurdaspur and had to take shelter at the house of her father at Mukerian, District Hoshiarpur. He further points out that on account of paucity of the resources, the petitioner-wife was constrained to file a petition under Section 125 of Criminal Procedure Code before learned Judicial Magistrate at Mukerian.

In retaliation of the said petition, the respondent-husband has filed a petition under Section 9 of Hindu Marriage Act at Gurdaspur. He further points out that there is no adult male member except father of the petitioner-wife at Mukerian to accompany her to Gurdaspur to defend her case on each and every date of hearing. He further submits that the petition under Section 9 of Hindu Marriage Act pending adjudication at Gurdaspur be transferred to a Court of competent jurisdiction at Mukerian, District Hoshiarpur.

Learned counsel for the respondent submits that the distance between Gurdaspur and Hoshairpur is hardly 50 kilometres., therefore, the petition as prayed may not be transferred.

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) and **Leena Kalra @ Lovely v. Parveen Kumar** (TA No. 381 of 2014, decided on 30.03.2015).

After going through the latest law on the subject and the material available on record, petition titled as “Gurdial Chand Vs.Paramjit” is transferred from the Court of learned Civil Judge (Senior Division), Gurdaspur to the Court of learned Additional Civil Judge (Senior Division) at Mukerian, District Hoshiarpur.

The transferee Court shall try the case itself or assign the same to any other Court of competent jurisdiction at Mukerian. District Hoshiarpur. Learned Civil Judge (Senior Division), Gurdaspur is directed to send the complete record of the case to the transferee Court immediately.

The parties to the *lis* shall appear before learned Additional Civil Judge (Senior Division), Mukerian, District

Hoshiarpur on 20.08.2015 at 10:00 am, for further proceedings.

Disposed of accordingly.

July 20, 2015
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(NARESH KUMAR SANGHI)
JUDGE