

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

Transfer Application No.240 of 2015

Date of Decision: July 20, 2015

Paramjit Kaur

..Petitioner

Versus

Sukhwinder Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr.S.K.Bokolia, Advocate,
for the petitioner.

Mr.Navjeet Singh, 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 the present petition filed under Section 24 of Code of Civil Procedure (for brevity 'CPC') is for transfer of the case tilted as “**Sukhwinder Singh vs. Paramjit Kaur**” filed under Section 13 of the Hindu Marriage Act, 1955 from Court of learned Additional District Judge, Ludhiana to a Court of competent jurisdiction at Moga.

Learned counsel for the petitioner submits that a

petition under Section 125 Cr.P.C. a complaint under the Protection of Women from Domestic Violence Act and a criminal case for the offences punishable under Sections 498-A IPC etc. are pending against the respondent-husband and his family members before the learned Courts at Moga; the petitioner has a minor child with her at Moga; the petitioner was involved in a false case for committing the offence punishable under Section 328 IPC by the respondent-husband and his family members and that in view of the harsh nature of the respondent-husband it is not feasible for the petitioner-wife to live with him at Ludhiana and as such she was forced to leave her matrimonial house and to shift at the parental house at Moga. He prays that the petition under Section 13 of Hindu Marriage Act has been filed by the respondent-husband as a counter blast to the case filed by the petitioner at Moga. He submits that the case filed by the respondent-husband may be transferred to a Court of competent jurisdiction at Moga.

Learned counsel for the respondent-husband submits that the present petition is liable to be dismissed on the sole ground that the petitioner has failed to disclose that she was convicted under Section 328 IPC for administering the poisonous substance to the parents of the respondent-husband. He further

submits that the distance between Ludhiana and Moga is approximately 70 kilometres. Therefore, the petitioner-wife shall have no inconvenience in coming to Ludhiana for defending the case filed by the respondent-husband.

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

In the matter of ***Sumita Singh vs. Kumar Sanjay & 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 vs. Manpreet Singh***, Transfer Application No.263 of 2009, decided on 25.11.2009, by a Co-ordinate Bench of this Court held that in terms of Section 21-A of the Hindu Marriage Act, all proceedings under the Hindu Marriage 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 were the pronouncements by this Court in the matters of ***Annu Arora vs. Rakesh Kumar***, Transfer Application

No.648 of 2011, decided on 16.12.2011 and **Bhupinder Kaur** vs. **Inderpreet Singh**, Transfer Application No.616 of 2011, decided on 09.05.2012 by a Co-ordinate Bench of this Court. In the matter of “**Leena Kalra @ Lovely** vs. **Parveen Kumar**”, Transfer application No.381 of 2014, decided by this Court on 30.03.2015, the same view was endorsed.

It has been argued that three cases are already pending before the Courts at Moga, the petitioner has the minor child with her at Moga and that she has no means to go to Ludhiana to defend the case filed by the petitioner, on each date of hearing.

The argument raised by the learned counsel for the respondent-husband that the petitioner-wife was convicted under Section 328 IPC is no ground for not accepting the prayer of the petitioner.

In view of the above ratio of the judgments cited hereinabove and the facts available on record, the case titled as “**Sukhwinder Singh** vs. **Paramjit Kaur**” under Section 13 of the Hindu Marriage Act is transferred from the Court of learned Additional District Judge, Ludhiana to the board of learned District Judge, Moga. The transferee Court shall try the case itself

or assign it to any other court of competent jurisdiction within the Sessions Division, Moga. Learned Additional District Judge, Ludhiana shall send the complete record of the above said case to the transferee court immediately.

The parties to the *lis* shall appear before the transferee Court on 20.08.2015 at 10.00 a.m. for further proceedings.

Disposed of accordingly.

(NARESH KUMAR SANGHI)
JUDGE

July 20, 2015
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