

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

TA No.334 of 2015

Date of Decision: 28.11.2015.

VIKAS JAIRATH

....Petitioner.

VERSUS

SAMITA SEHGAL AND ORS

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present:Ms. Amandeep Kaur, Advocate for
Mr. J.B.S. Gill, Advocate
for the petitioner.

Mr. Gaurav Sharma, Advocate
for the respondents.

SNEH PRASHAR, J.

1. This petition under Section 24 of the Code of Civil Procedure was filed by Vikas Jairath-husband seeking transfer of the petition filed under Section 25 of the Hindu Marriage Act, 1955 (for short, “the Act of 1955”) by the respondent-wife from Additional District Judge, Ferozepur to some Matrimonial Court of competent jurisdiction at Hoshiarpur or some other place.

2. Heard the submissions made by Ms. Amandeep Kaur, Advocate representing the petitioner and Mr. Gaurav Sharma, Advocate representing respondent No.1.

3. From the pleadings of the petition, it transpires that a petition under Section 25 the Act of 1955 for grant of permanent alimony has been filed by respondent No.1-wife and her children against the petitioner-husband which is pending before learned Additional District Judge,

Ferozepur. The petitioner has filed the instant application for transfer of the said petition from Ferozepur to a Court of competent Jurisdiction at Hoshiarpur or some other place. Learned counsel for the petitioner submitted that earlier when a petition under Section 125 of the Code of Criminal Procedure had been filed by respondent No.1-wife and she had also got registered a criminal case under Section 406, 498-A of the Indian Penal Code against him, his mother and others and he had gone to attend the hearing in the said cases and also to attend the inquiry being conducted by Deputy Superintendent of Police, Ferozepur, he was manhandled by father, brother and paternal uncle of respondent No.1. On 13.02.2008 also when he had gone to the Court premises at Ferozepur in connection with the cases filed against him he was assaulted by the father, brother and other family members of respondent No.1. He got himself medico legally examined and also filed CRM-M-9894 of 2008 invoking the provisions of 407 of the Code of Criminal Procedure for transfer of the petition under Section 125 Cr.P.C and under Section 406 and 498-A of the Indian Penal Code from Ferozepur which was allowed vide order dated 24.04.2009 and the cases were transferred to Kapurthala. Subsequently, on a special leave petition filed by respondent No.1 the Hon'ble Supreme Court remanded the petition for reconsideration and the case under Section 406 and 498-A of the Indian Penal Code was transferred from Kapurthala to Moga. Learned counsel contended that the petitioner apprehends danger to his life at the hands of respondent No.1 and her family members and therefore, it is difficult for him to contest the petition filed by the respondents at Ferozepur where they all are residing.

4. The application has been opposed by learned counsel for the

respondents but no written reply has been filed by them. Learned counsel for the respondents submitted that the incident to which the petitioner has referred to in his pleadings are of 2007-2008. There is also no truth in the same as no family member of respondent No.1 has ever assaulted the petitioner. In any case respondent No.1 had filed a petition under Section 13 of the Hindu Marriage Act for dissolution of her marriage with the petitioner which has since been decreed ex parte and till date no application for setting aside the ex parte decree of divorce has been filed by the petitioner. The two minor children born out of the wedlock of the parties and aged 11 and 8 years are under the care and custody of respondent No.1 and the petitioner is contributing nothing towards their nourishment because of which they have now filed a petition under Section 25 of the Hindu Marriage Act for permanent alimony. The children being school going, it will be difficult for respondent No.1 to frequently travel to some other place for pursuing the petition.

5. Having considered the rival contentions of the parties I find that much water has flown after the incident, if any, that had taken place in the year 2007-2008. As presented by learned counsel for the respondents, on a petition under Section 13 of the Hindu Marriage Act filed by respondent No.1 already an ex parte decree of divorce dissolving the marriage of the parties to the *lis* has been passed by a competent Court of jurisdiction and so far no application for setting aside the decree has been filed by the petitioner. The two minor children born out of the wedlock of the parties are being brought up by respondent No.1 single handedly. It has been mentioned by the petitioner in his pleadings that respondent No.1 is employed as a teacher in DC Public School and the said fact has not been

controverted by respondent No.1. She is a working lady and has also to look after the children. So needless to say that it will be difficult for her to pursue the petition for permanent alimony filed by her for herself and her children at a distant place whereas the petitioner being a young man, can easily travel for one place to another.

Resultantly finding no ground for transfer of the petition, the instant transfer application is hereby dismissed.

(SNEH PRASHAR)
JUDGE

28.11.2015
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