

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

TA No.374 of 2015.

Date of Decision: 08.12.2015.

Rekha

....Petitioner.

VERSUS

Mohit Garg

....Respondent.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Rajesh Pal, Advocate for the petitioner.

Mr. Rahul Rampal, Advocate for the respondent.

SNEH PRASHAR, J.

This petition under Section 24 of the Code of Civil Procedure was filed by petitioner Smt. Rekha-wife seeking transfer of the petition under Section 13(ia) and 13(vi) of the Hindu Marriage Act, 1955 (for short, “the Act of 1955”) filed by the respondent-husband from the Court of Additional District Judge, Ludhiana to the Court of competent jurisdiction at Panipat.

The submissions made by Mr. Rajesh Pal, learned counsel representing the petitioner and Mr. Rahul Rampal, learned counsel representing the respondent have been heard.

It is submitted on behalf of the petitioner that she was married to the respondent on 19.10.2012 as per Hindu rites and ceremonies. After

marriage, she was treated with cruelty by the respondent-husband and his family members. On 19.05.2013 she was beaten up mercilessly and on calling the police came and got her admitted in Civil Hospital, Ludhiana where she remained admitted for three days. The police initiated proceedings only under Section 107/151 against the respondent and his brother. When no further action was taken she moved an application to Commissioner of Police, Ludhiana which was marked to S.H.O., Police Station (Women), Ludhiana. Later she requested to transfer that application to Superintendent of Police, Panipat but when they did not do so she moved another complaint on 30.05.2013 to Superintendent of Police, Panipat. However, the respondent and his family members on the one hand compromised the matter but on the other continued pursuing their complaint under Sections 323, 324, 380, 452, 427, 506, 148, 149, 120-B of the Indian Penal Code in which she and her family members were summoned. The respondent also managed to obtain an exparte decree for restitution of conjugal rights passed in a petition filed by him under Section 9 of the Act of 1955. On 24.10.2013, a male child was born who is residing with the petitioner. She filed a complaint under the Protection of Women from Domestic Violence Act, 2005 and a petition claiming maintenance under Section 125 of the Code of Criminal Procedure against the respondent which are pending at Samalkha, District Panipat. Respondent has since instituted a petition under Section 13(ia) and 13(vi) of the Act of 1955, which is pending adjudication in the Court of Additional District Judge, Ludhiana. Submitting that the petitioner has no independent source of

income and alongwith her minor child is residing at the mercy of her parents, learned counsel sought transfer of the petition from Ludhiana to Panipat.

The respondent resisted the prayer of the petitioner on the ground that all allegations levelled by her are false and that she had left the conjugal company of the respondent of her own volition and enjoys good health for travelling from one place to another.

Presently, the petitioner alongwith her minor child is residing with her parents at Panipat. Two cases arising out of the marital discord between the parties are already pending at Panipat in which the respondent must be appearing. The distance between Panipat and Ludhiana is about 250 kilometers. The petitioner has a small child and it will be difficult for her to attend the hearings before the Court at Ludhiana by travelling such long distance 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(ia) and 13(vi) of the Act of 1955 pending in the Court of learned Additional District Judge, Ludhiana is withdrawn from the said Court and is transferred to the Court of competent jurisdiction at Panipat. The file shall be sent by the trial Court to the Court of District and Sessions Judge, Panipat 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 Panipat.

The parties are directed to appear before the District Judge, Panipat on 15.01.2016.

(SNEH PRASHAR)
JUDGE

08.12.2015.
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