

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

TA No.385 of 2015.

Date of Decision: 16.11.2015.

Nancy

....Petitioner.

VERSUS

Suresh Kumar

....Respondent.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Petitioner Nancy in person with Mr. Gaurav Sharma, Advocate.

Respondent Suresh Kumar in person with Mr. H.S. Jalal,
Advocate.

SNEH PRASHAR, J.

This petition under Section 24 of the Code of Civil Procedure was filed by Smt. Nancy-wife seeking transfer of the petition filed under Section 9 of the Hindu Marriage Act, 1955 (for short, “the Act of 1955”) by respondent-husband from the Court of learned Additional Civil Judge (Senior Division), Rampura Phull to the Court of competent jurisdiction at Barnala.

The submissions made by Mr. Gaurav Sharma, learned counsel representing the petitioner and Mr. H.S. Jalal, learned counsel representing the respondent have been heard.

It is submitted on behalf of the petitioner that she was married to the respondent on 14.10.2010 as per Hindu rites and ceremonies. After marriage, she was treated with cruelty by the respondent-husband and his

family members and ultimately on 13.10.2013 was turned out of the matrimonial home and since then is residing with her mother. A male child born out of the wedlock is in custody of the petitioner. She has filed a petition claiming maintenance under Section 125 of the Code of Criminal Procedure against the respondent which is pending at Barnala whereas the respondent has instituted a petition under Section 9 of the Act of 1955, which is pending adjudication in the Court of Additional Civil Judge (Senior Division), Rampura Phull. Submitting that the petitioner has no source of income and she alongwith her minor child is residing with her mother at Barnala, learned counsel sought transfer of the petition to Barnala.

Learned counsel for the respondent resisted the prayer of the petitioner on the ground that he is ready to keep and maintain her but she has herself withdrawn from his conjugal company without any reasonable cause.

Admittedly, the petitioner 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 Rampura Phull is about 50 kilometers. Travelling such a distance to attend the hearings before the Court that too alongwith the minor child will certainly be difficult for the petitioner 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 all the facts, the petition filed by the respondent under Section 9 of the Act of 1955 pending in the Court of learned Additional Civil Judge (Senior Division), Rampura Phull 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 21.12.2015.

(SNEH PRASHAR)
JUDGE

16.11.2015.
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