

TA-445-2015 (O&M)

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

TA-445-2015 (O&M)

Date of decision: 2.9.2015

Baljit Kaur

...Applicant

Versus

Jatinder Singh

...Respondent

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.Deepak Bhardwaj, Advocate for the applicant

Mr.Rajnikant Upadhyay, Advocate for the respondent

SNEH PRASHAR, J.

This is a petition by wife-applicant Smt. Baljit Kaur under Section 24 of the Code of Civil Procedure (for short, "C.P.C.") seeking transfer of the petition filed under Section 13 of the Hindu Marriage Act, 1955 (for short, "the Act") by respondent-husband from the Court of learned Additional District Judge, Patiala to the Court of competent jurisdiction at Ludhiana.

Power of attorney filed on behalf of the respondent is taken on record.

The submissions made by Mr.Deepak Bhardwaj, Counsel for the applicant and Mr.Rajnikant Upadhyay, Advocate for the respondent have been considered.

It was submitted on behalf of the applicant that she was

married to the respondent on 5.6.2013 at Doraha. It was the third marriage of respondent-husband and second marriage of the applicant. From the first marriage, she is having a minor child. After marriage, she was maltreated by the respondent-husband and his family members and was ousted from the matrimonial home on 28.2.2015 and since then is residing with her parents at village Doraha, District Ludhiana. She filed a petition under Section 125 of the Code of Criminal Procedure claiming maintenance. She also filed a petition under the Domestic Violence Act. A First Information Report No.70 dated 20.5.2015 under Section 406, 498-A of the Indian Penal Code at Police Station Doraha, District Ludhiana was registered against the respondent and his family members on the basis of the complaint lodged by her.

Submitting that the applicant is having no source of income and is residing at the mercy of her parents, learned counsel prayed for transferring the petition filed under Section 13 of the Act from the court of Additional District Judge, Patiala to District Courts, Ludhiana.

The prayer of the applicant was resisted by learned counsel for the respondent on the ground that the applicant had left the matrimonial home on her own volition and that the allegations levelled by her were false.

It is well settled principle of law that convenience of the wife is to be seen in the matters filed by the husband against the wife as held by the Hon'ble Supreme Court in the cases of **Sumita Singh vs. Kumar Sanjay and another, AIR 2002 SC 396, Neelam Kanwar vs**

Devinder Singh Kanwar, 2001(1) M.L.J. 509 (SC), and Mangla Patil Kale vs. Sanjeev Kumar (2003) 10 SCC 280.

In the present case, admittedly the applicant is presently residing with her parents at Ludhiana. Three cases arising out of matrimonial discord between the parties are already pending at Ludhiana. She is having no source of income and saddled with the responsibility of raising her minor child. In a dispute between the husband and the wife, normally the wife is at the receiving end. It would be very difficult for the applicant to travel with the minor daughter from Ludhiana to Patiala, which is about 100 Kms and the expenses for travelling will also be an additional financial burden on her.

Accordingly, in view of the facts discussed above, the petition filed by the respondent under Section 13 of the Act pending in the court of learned Additional District Judge, Patiala is withdrawn from the said court and is transferred to the court of competent jurisdiction at Ludhiana. The file shall be sent by the trial court to the court of District and Sessions Judge, Ludhiana 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 competent court of jurisdiction at Ludhiana.

The parties are directed to appear before the District Judge, Ludhiana on 28.09.2015.

2.9.2015
gsv

(SNEH PRASHAR)
JUDGE