

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

TA No.530 of 2015.

Date of Decision: 06.10.2015.

Anita

....Petitioner.

VERSUS

Rakesh Kumar

....Respondent.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Munish Puri, Advocate for the petitioner.
None for the respondent.

SNEH PRASHAR, J.

This petition under Section 24 read with Section 151 of the Code of Civil Procedure was filed by petitioner Smt. Anita-wife seeking transfer of the petition filed under Section 13 of the Hindu Marriage Act, 1955 (for short, “the Act of 1955”) by respondent-husband from the Court of learned District and Sessions Judge, Gurdaspur to the Court of competent jurisdiction at Pathankot.

Despite due service of notice of the petition on the respondent, he did not opt to appear and contest the same and is thus proceeded against exparte.

The submissions made by learned counsel representing the petitioner have been considered.

It is submitted on behalf of the petitioner that she was married to the respondent on 20.02.2005 as per Hindu rites and ceremonies. After

marriage, she was treated with cruelty by the respondent-husband and his family members and ultimately in the month of August, 2005 was thrown out of the matrimonial home and since then she is residing with her parents. A male child was born out of the wedlock. She filed a petition claiming maintenance under Section 125 of the Code of Criminal Procedure (for short, "Cr.P.C.") against the respondent which was allowed and execution application filed by her under Section 125(3) Cr.P.C. is pending at Pathankot. Respondent has since filed a petition under Section 13 of the Act of 1955, which is pending adjudication in the Court of District and Sessions Judge, Gurdaspur. Submitting that the petitioner has no independent source of income and it is also difficult for her to travel from Gurdaspur to District Courts Pathankot to defend the petition, learned counsel sought transfer of the petition to Pathankot.

Admittedly, due to the marital discord, the petitioner is residing with her parents at Pathankot. The distance between Pathankot and Gurdaspur is about 40 kilometers. She has a small child and it is indeed difficult for her to travel and contest the petition filed by the husband at a far of place especially when the execution application filed by her under Section 125(3) Cr.P.C. against the respondent-husband is already pending at Pathankot. 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 of the Act of 1955 pending in the Court of learned District and Sessions Judge, Gurdaspur is withdrawn from the said Court and is transferred to the Court of competent jurisdiction at Pathankot. The file shall be sent by the trial Court to the Court of District and Sessions Judge, Pathankot 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 Pathankot.

The parties are directed to appear before the District Judge, Pathankot on 16.11.2015.

(SNEH PRASHAR)
JUDGE

06.10.2015.

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