

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

TA No.549 of 2015.

Date of Decision: 16.11.2015.

Gurdeep Kaur

....Petitioner.

VERSUS

Jagjit Singh

....Respondent.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Abhivadya Sood, Advocate for the petitioner.

None for the respondent.

SNEH PRASHAR, J.

This petition under Section 24 of the Code of Civil Procedure was filed by Smt. Gurdeep Kaur-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 District Judge, Family Court, Ambala to the Court of competent jurisdiction at Patiala.

Despite the notice having been received back served through father, none has appeared on behalf of the respondent. He is, thus, proceeded against exparte.

The submissions made by Mr. Abhivadya Sood, learned counsel representing the petitioner have been considered.

It is submitted on behalf of the petitioner that she was married to the respondent on 24.06.2007 as per Sikh rites by way of Anand Karaj.

After marriage, she was treated with cruelty by the respondent-husband and his family members and ultimately was thrown out of the matrimonial home and since February, 2012 is residing with her parents. Two children were born out of the wedlock. Having faced the cruelty at the hands of the respondent and his family members, she lodged a complaint with the police on which First Information Report No.25779 dated 10.07.2015 under Section 498-A and 406 of the Indian Penal Code stands registered against the respondent and his family members. She also filed a complaint under Section 12 of the Protection of Women from Domestic Violence Act, 2005 against the respondent and she also filed a petition under Section 13 of the Act of 1955 which are all pending at Patiala. Respondent has since instituted a petition under Section 9 of the Act of 1955, which is pending adjudication in the Court of District Judge, Family Court, Ambala. Submitting that the petitioner is a poor lady and has no independent source of income and is residing at the mercy of her parents, learned counsel sought transfer of the petition to Patiala.

Admittedly, the petitioner alongwith her minor children is residing with her parents at Patiala. Three cases arising out of the marital discord between the parties are already pending at Patiala among which is a petition under Section 13 of the Act of 1955 filed by the petitioner. The distance between Patiala and Ambala is about 60 kilometers. It will indeed be difficult for the petitioner to attend the hearings before the Court and defend the petition by travelling such a distance alongwith the minor children. The expenses for travelling will also be an additional financial

burden on her. Moreover, the petitions filed by the petitioner and the respondent under the Act of 1955 have to be tried together. 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 9 of the Act of 1955 pending in the Court of learned District Judge, Ambala is withdrawn from the said Court and is transferred to the Court of competent jurisdiction at Patiala. The file shall be sent by the trial Court to the District and Sessions Judge, Patiala 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 Patiala.

The parties are directed to appear before the District Judge, Patiala on 22.12.2015.

(SNEH PRASHAR)
JUDGE

16.11.2015.
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