

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

TA No.55 of 2015.

Date of Decision: 11.08.2015.

Pinky

....Petitioner.

VERSUS

Neeraj Pathak

....Respondent.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Alok Jagga, Advocate for the petitioner.

Mr. M.K. Bhatnagar, Advocate for the respondent.

SNEH PRASHAR, J.

This is a petition by wife-petitioner Smt. Pinky 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 of 1955") by respondent-husband from the court of Additional District Judge, Panchkula to the court of competent jurisdiction at Patiala.

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

From the rival contention of the parties, it transpires that the marriage between the petitioner and the respondent was solemnized on 02.12.2009 in the presence of relatives of both the parties at Patiala. It was submitted on behalf of the petitioner that she was being repeatedly harassed and maltreated by the respondent and his family members and was forcibly thrown out of the matrimonial home on 20.12.2013. Since then she is residing with her parents at village Bhadson, District Patiala.

It was further submitted on behalf of the petitioner that a three years old child, born out of her wedlock with the respondent, is being taken care of by her. She had filed a petition claiming maintenance allowance from the respondent which was allowed but he had not been paying the maintenance allowance and the arrears have accumulated to Rs.74,000/-. She has no independent source of income and is unable to bear the travelling expenses. Otherwise also, it is difficult for her to travel with the child from village Bhadson, District Patiala to Panchkula where the petition under Section 13 of the Act of 1955 filed by the respondent is pending.

Resisting the prayer of the petitioner, learned counsel for the respondent submitted that the petitioner lodged a First Information Report No.270 against the respondent and his family members at Panchkula and also filed a complaint under Protection of Women from Domestic Violence Act, 2005 (for short, "the Act of 2005") at Panchkula and thus transferring the petition under Section 13 of the Act of 1955 will not serve the purpose of the petitioner.

Admittedly, petitioner is presently residing with her parents at Patiala. She has a small child dependent on her. It will undoubtedly be inconvenient/difficult for the petitioner to travel alongwith the child all the way from Patiala to Panchkula to attend the court proceedings. It has been held in *Sumitra Singh vs. Kumar Sanjay and another, AIR 2002 (SC) 396* and *Neelam Kanwar vs. Devinder Singh Kanwar, 2000(43) AIR 129* that convenience of the wife has to be taken into consideration in such like matters.

Accordingly, the petition filed by the respondent under Section 13 of the Act of 1955 pending in the court of Additional District Judge, Panchkula 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 court of 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 or will entrust the same to any other competent court of jurisdiction at Patiala.

The parties are directed to appear before the District Judge, Patiala on 03.09.2015.

(SNEH PRASHAR)
JUDGE

11.08.2015.
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