

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

Transfer Application No.169 of 2014

Date of Decision: August 06, 2015

Shailey

...Petitioner

Versus

Nishu

...Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr.Surinder Singh Virk, Advocate,
for the petitioner.

Mr.Sandeep Vermani, Advocate,
for the respondent.

*1. Whether Reporters of Local papers may be allowed to see the judgment? **Yes***

*2. To be referred to the Reporters or not? **yes***

*3. Whether the judgment should be reported in the Digest? **yes***

Naresh Kumar Sanghi, J.(Oral)

The present petition has been filed under Section 24 of the Civil Procedure Code, 1908 (for brevity "CPC") for transfer of petition bearing HMA case No.150 dated 13.02.2013 titled as "***Nishu vs. Shailey***" filed under Section 13 (1) (ia) of the Hindu Marriage Act, 1955 (for brevity 'the Act') from the Court of learned District Judge, Family Court, Faridabad to a Court of the competent jurisdiction at Panipat.

Learned counsel for the petitioner-wife contends that due to callous behaviour of the respondent, it was not possible for the petitioner- wife to live any more with him. The petitioner was forced to leave the matrimonial house at Faridabad and she

had to take shelter at her parental house at Panipat. Three more cases arising out of the Section 498-A of the Indian Penal Code etc.; a complaint under Protection of Women from Domestic Violence Act, 2005, and a criminal revision petition against the order of grant of maintenance under Section 125, Cr.P.C., are pending adjudication before the Hon'ble Courts at Panipat. He also points out that there is no adult member to accompany her to Faridabad on each date of hearing. She has no resources to go to Faridabad from Panipat which is at a distance of 130 kilometres.

Learned counsel for the respondent-husband very fairly concedes that in addition to three cases described hereinabove, one complaint case at the behest of the respondent-husband is pending adjudication before the Courts at Panipat. However, he has vehemently opposed the transfer of the said case from Faridabad to Panipat.

I have heard learned counsel for the parties and with their able assistance gone through the material available on record.

In the matter of ***Sumita Singh vs. Kumar Sanjay & another, AIR 2002 SC 396*** Hon'ble the Supreme Court while dealing with the petition under Section 24, CPC, for transfer of a matrimonial case held that “ *it is the wife's convenience that must be looked at*”. In ***Jitender Kaur vs. Manpreet Singh***, Transfer

Application No.263 of 2009, decided on 25.11.2009, by a Co-ordinate Bench of this Court held that in terms of Section 21-A of the Act, all proceedings under the Act have to be tried by the same Court, therefore, a petition under Section 13 of the Act filed by the respondent has to be tried by the same court which is seized of earlier proceedings under Section 9 of the Act.

Similar were the pronouncements by this Court in the matters of **Annu Arora vs. Rakesh Kumar**, Transfer Application No.648 of 2011, decided on 16.12.2011 and **Bhupinder Kaur vs. Inderpreet Singh**, Transfer Application No.616 of 2011, decided on 09.05.2012 by a Co-ordinate Bench of this Court. In the matter of “**Leena Kalra @ Lovely vs. Parveen Kumar**”, Transfer application No.381 of 2014, decided by this Court on 30.03.2015, and **Suman vs. Baldev Singh, (TA No.637 of 2013, decided on 3.07.2015)**, the same view was endorsed.

Learned counsel for the petitioner-wife has pointed out that due to callous behaviour of the respondent, it was not possible for the wife to live with him at Faridabad. Four more cases between the same parties are pending before the Courts at Panipat; except the widowed mother, there is no other adult member at her parental house to accompany her to Faridabad from Panipat which is at a distance of 130 kilometres and she being destitute wife, has no means to spend money to go to Faridabad.

Keeping in view the factual and legal aspects of the case, the petition titled as titled as “***Nishu vs. Shailey***” pending before the learned District Judge, Family Court, Faridabad is transferred to the Board of learned District Judge, Panipat, who shall either try the said case himself/herself or assign it to any other court of competent jurisdiction within his/her Sessions Division for trial in accordance with law. The former Court shall send the complete record of the above said case to the transferee Court, as soon as the copy of this order is received.

The parties to the *lis* shall appear before learned District Judge, Panipat, on 07.09.2015 at 10:00 am for further proceedings.

Disposed of accordingly.

August 06, 2015
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(Naresh Kumar Sanghi)
Judge