

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

TA No.209 of 2014.

Date of Decision: 20.11.2015.

Asma

....Petitioner.

VERSUS

Rajesh

....Respondent.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. M.K. Bhatnagar, Advocate for the petitioner.

None for the respondent.

SNEH PRASHAR, J.

Invoking the provisions of Section 24 of the Code of Civil Procedure Smt. Asma-wife has sought transfer of the petition under Section 13 of the Hindu Marriage Act, 1955 (for short, “the Act of 1955”) filed by respondent-husband from the Court of learned District Judge, Gurdaspur to the Court of competent jurisdiction at Amritsar.

None has appeared on behalf of the respondent despite the case having been called twice. He is thus proceeded against exparte.

The submissions made by Mr. M.K. Bhatnagar, learned counsel appearing for petitioner have been considered.

It is submitted on behalf of the petitioner that she was married to the respondent on 19.06.2007 as per Hindu rites and rituals. After marriage, she was treated with cruelty by the respondent-husband and his

family members and was ultimately thrown out of the matrimonial home and is since residing with her parents at Amritsar. 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 decided vide order dated 14.08.2013 by the Court of Judicial Magistrate Ist Class, Amritsar. Respondent has since instituted a petition under Section 13 of the Act of 1955, which is pending adjudication in the Court of District Judge, Gurdaspur. 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 Amritsar.

Admittedly, the petitioner is residing with her parents at Amritsar. She had filed a petition claiming maintenance which has since been decided. The distance between Amritsar and Gurdaspur is about 75 kilometers which is sufficiently long enough for the petitioner to travel for attending the hearings before the Court and 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 Judge, Gurdaspur is withdrawn from the said Court and is transferred to the Court of competent jurisdiction at Amritsar. The file shall be sent by the trial Court to the District and

Sessions Judge, Amritsar 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 Amritsar.

The parties are directed to appear before the District Judge, Amritsar on 07.01.2016.

(SNEH PRASHAR)
JUDGE

20.11.2015.
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