

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

TA No.228 of 2014 (O&M).

Date of Decision: 11.08.2015.

Sweety

....Petitioner.

VERSUS

Anuj Garg

....Respondent.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Arun Bansal, Advocate for the petitioner.
Mr. Munish Kumar Garg, Advocate for the respondent.

SNEH PRASHAR, J.

This is a petition by wife-petitioner Smt. Sweety under Section 24 of the Code of Civil Procedure (for short, "C.P.C.") read with Section 21A of the Hindu Marriage Act, 1955 (for short, "the Act of 1955") seeking transfer of the petition filed under Section 13 of the Act of 1955 by respondent-husband from the court of Additional District Judge, Panchkula to the court of learned District Judge, Jind.

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 07.12.2009 at Zirakpur, District SAS Nagar, Mohali as per Hindu rites and ceremonies. It was submitted on behalf of the petitioner that she was made to leave her matrimonial home under conspiracy/secret planning of the respondent and his family members. Since then she is residing with her parents at Narwana. She and her parents tried their best for her settlement in the matrimonial home but the respondent and his family members were against the continuation of marriage. Earlier a petition under Section 13 of the Act of 1955 seeking dissolution of their marriage was filed by the respondent. On an application i.e. TA No.421 of 2010 filed by her, this Court transferred the petition pending adjudication in the court of Additional District Judge, Panchkula to the court of competent jurisdiction at Jind, vide order dated 30.05.2011. To avoid payment of interim maintenance allowance the respondent withdrew that divorce petition. She has since come to know that the respondent has again filed a petition under Section 13 of the Act seeking decree of divorce which is pending adjudication in the court of Additional District Judge, Panchkula. Submitting that her parents are old and she has a handicapped brother and is unable to attend the proceedings at Panchkula, a prayer was made for transfer of the petition from the court of Additional District Judge, Panchkula to the court of competent jurisdiction at Jind.

Controverting the submissions made on behalf of the petitioner, learned counsel for the respondent argued that a criminal

complaint under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (for short, “the Act of 2005”) filed by the petitioner is pending at Panchkula. In a criminal miscellaneous petition No.M-37516 of 2011 filed by the respondent before this court for quashing the said complaint, learned counsel representing the petitioner had sought adjournment to seek instructions from the petitioner whether she wanted to pursue the complaint at Panchkula or Jind and on 29.08.2012 the petition was disposed of by this court observing that the petitioner will pursue the complaint filed at her instance in the courts at Panchkula and will withdraw the complaint filed by her in the court at Jind. The said petition filed by her under Section 12 of the Act of 2005 has since been dismissed in default for non prosecution.

Admittedly, the earlier petition under Section 13 of the Act of 1955 filed by the respondent at District Court, Panchkula was transferred from the said court to the court of competent court of jurisdiction at Jind on a transfer application filed by the petitioner. Whatever may have been the reason for withdrawing that petition, it was improper for the respondent to have filed second petition under Section 13 of the Act of 1955 again in District Court, Panchkula. Admittedly, petitioner is presently residing with her parents at Narwana, the distance from Jind to Panchkula is approximately 150 kilometers and it is undoubtedly inconvenient/difficult for the petitioner to travel all the way from Narwana 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 Jind. The file shall be sent by the trial court to the court of District Judge, Jind 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 Jind.

The parties are directed to appear before the District Judge, Jind on 26.08.2015.

(SNEH PRASHAR)
JUDGE

11.08.2015.
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