

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

TA-277-2014 (O&M)
Date of Decision: July 27, 2015

Kamal Sharma

...Petitioner

Versus

Virender Kumar

...Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr. Sutikshan Sharma, Advocate,
for Mr. Gurdial Singh Jaswal, Advocate,
for the petitioner.

Mr. Tapish Gupta, Advocate,
for Ms. Puja Chopra, Advocate,
the respondent.

1. *Whether Reporters of local papers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the Digest?*

NARESH KUMAR SANGHI, J (Oral)

Prayer in this petition filed under Section 24 read with Section 151 of the Code of Civil Procedure, 1908, is for transfer of the petition, titled as "Virender Kumar v. Kamal Sharma", filed under Section 9 of the Hindu Marriage Act, 1955 (for brevity, 'the Act'), from the Court of learned Additional Civil Judge (Senior Division) Bathinda, to a Court of competent jurisdiction at Chandigarh.

Learned counsel contends that due to harsh nature of the respondent-husband, it was not possible for the petitioner-wife to pull any more with him. The petitioner-wife was forced to leave the matrimonial house at Bathinda and seeing no alternative, she had to shift to Chandigarh to live at her parental house. It was further submitted that the petitioner, who is a young woman, has no source of independent income, therefore, it would not be practicable for her to go to Bathinda on each and every date of hearing, to defend the case filed by the respondent-husband. Learned counsel further points out that except her father, there is none at the parental house to accompany the petitioner to Bathinda. One more case arising out of the Protection of Women from Domestic Violence Act, 2005, is pending adjudication before the Court at Chandigarh.

Learned counsel for the respondent submits that the respondent-husband was transferred from Bathinda to some other place, therefore, he has no objection if the above stated petition is transferred from Bathinda to Chandigarh.

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 v. Kumar Sanjay and 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 v. Manpreet Singh** (TA No. 263 of 2009, decided on 25.11.2009), 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 in the said case, was ordered to be tried by the same court which was seized of earlier proceedings under Section 9 of the Act.

Similar view was taken in the matters of **Annu Arora v. Rakesh Kumar** (TA No. 648 of 2011, decided on 16.12.2011); **Bupinder Kaur v. Inderpreet Singh** (TA No. 616 of 2011, decided on 09.05.2012); **Leena Kalra @ Lovely v. Parveen Kumar** (TA No. 381 of 2014, decided on 30.03.2015); and **Suman v. Baldev Singh** (TA No. 637 of 2013, decided on 3.7.2015).

In view of the rival contentions raised by learned counsel for the parties and taking into consideration latest judgments on the subject, the case titled as “Virender Kumar v. Kamal Sharma”, filed under Section 9 of the Act by the respondent-husband, is transferred from the Board of learned Additional Civil Judge (Senior Division) Bathinda, to the Board of learned District Judge, Chandigarh, who shall assign it to appropriate Court within his jurisdiction for trial in accordance with law.

Learned Civil Judge (Senior Division) Bathinda, shall send the complete record of the case titled as “Virender Kumar v. Kamal Sharma”, filed under Section 9 of the Act by the respondent-husband, to the Court of learned District Judge, Chandigarh, immediately.

The parties to the *lis* are directed to appear before learned District Judge, Chandigarh, on 27.8.2015, at 10:00 a.m., for further proceedings.

Disposed of accordingly.

(NARESH KUMAR SANGHI)
JUDGE

July 27, 2015
Pkapoor