

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

TA-293-2014

Date of Decision: July 24, 2015

Asha Deep Kaur

...Petitioner

Versus

Sarabjit Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr. Ritesh Pandey, Advocate,
for the petitioner.

None for 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 of the Code of Civil Procedure, 1908, is for transfer of the petition, titled as "Sarabjit Singh v. Asha Deep Kaur", filed under Section 13 of the Hindu Marriage Act, 1955 (for brevity, 'the Act'), from the Court of learned District Judge, Patiala, to a Court of competent jurisdiction at Gurdaspur.

Learned counsel contends that the marriage of the parties was solemnized on 10.7.2011 at Batala. From the very inception of their marriage, the respondent-husband and his family

members started harassing the petitioner on account of demand of dowry. Initially, the petitioner tolerated the miseries, but ultimately she was turned out of the matrimonial house alongwith her minor son and she had to take shelter at her parental house at Gurdaspur. Since she had no resources to live, therefore, she had filed an application under Section 125, Cr.P.C, and another complaint under Section 12 of the Protection of Women from Domestic Violence Act, 2005, before the Courts at Batala, which are pending adjudication. He further points out that there is no adult male member in the parental house of the petitioner who can accompany her to Patiala, to defend the case filed by the respondent-husband, on each and every date of hearing. He further submits that the petition filed by the respondent-husband be transferred to the Court of competent jurisdiction at Gurdaspur.

Notice of motion of the present petition was issued to the respondent, but despite service no one has put in appearance on his behalf.

I have heard learned counsel for the petitioner and with his 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).

There appears to be substance in the submissions made by learned counsel for the petitioner-wife when he submits that three years old child is residing with the petitioner; the cases under Section 125, Cr.P.C., and Section 12 of the Protection of Women from Domestic Violence Act, 2005, filed by the petitioner, are pending at Batala; there is no adult male member in the parental family of the petitioner to accompany her to Patiala from Gurdaspur to defend the case filed by the respondent-husband; and that the petitioner being a lady has no resources to spend money to go to Patiala from Gurdaspur to defend the case filed by

the respondent-husband.

In view of the totality of the facts and circumstances of the case and the ratio of the judgments delivered by Hon'ble the Supreme Court and this Court, the case titled as "Sarabjit Singh v. Asha Deep Kaur", filed under Section 13 of the Act by the respondent-husband, is transferred from the Board of learned District Judge, Patiala, to the Court of learned District Judge, Gurdaspur, who shall either try the case himself or assign the same to any other Court of competent jurisdiction within Sessions Division, Gurdaspur.

Learned District Judge, Patiala, shall send the complete record of the case "Sarabjit Singh v. Asha Deep Kaur", filed under Section 13 of the Act by the respondent-husband, to the Court of learned District Judge, Gurdaspur, immediately.

The parties to the *lis* are directed to appear before learned District Judge, Gurdaspur, on 24.8.2015, at 10:00 a.m., for further proceedings.

Disposed of accordingly.

(NARESH KUMAR SANGHI)
JUDGE

July 24, 2015
Pkapoor