

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

TA-311-2014

Date of Decision: July 16, 2015

Parveen Kaur

...Petitioner

Versus

Gurkirpal Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr. Himanshu Puri, Advocate,
for the petitioner.

Mr. Sumit Dua, 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)

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 "Gurkirpal Singh v. Parveen Kaur", filed under Section 13 of the Hindu Marriage Act, 1955 (for brevity, 'the Act'), from the Court of learned District Judge, Kapurthala, to a Court of competent jurisdiction at Amritsar.

Learned counsel for the petitioner submits that a petition under Section 125, Cr.P.C., filed by the petitioner, is

pending adjudication at Baba Bakala, District Amritsar and an FIR for the offence punishable under Section 498-A, IPC, lodged by the petitioner against the respondent-husband and his family members is also pending investigation before the police at Baba Bakala, District Amritsar.

Learned counsel further contends that due to harsh nature of the respondent-husband, it was not possible for the petitioner-wife to pull any more with him and, as such, she was forced to leave the matrimonial house at Kapurthala and had to join the paternal house at Baba Bakala, District Amritsar. He further submits that father of the petitioner is a driver and suffering from Tuberculosis and there is no adult member at the paternal side of the petitioner to accompany her on each date of hearing to Kapurthala from Baba Bakala, District Amritsar. He further points out that the petitioner is living in a village which is far away from the main road and it is not possible for her to board a bus to go to Kapurthala on each date of hearing. The amount of monthly maintenance granted by the learned Magistrate in a petition under Section 125, Cr.P.C., is meagre one and she cannot spend the said amount on transportation.

On the other hand, learned counsel for the respondent-husband submits that the distance between Kapurthala and Baba

Bakala is approximately 30 Kms.; there is no child born out of the wedlock of the petitioner and the respondent and, as such, she (petitioner) has no difficulty to come to Kapurthala to attend the Court proceedings; father of the petitioner is a driver and he can very well accompany her to come to Kapurthala from Baba Bakala; the petitioner is getting adequate monthly maintenance from the respondent-husband; and that a case under Section 452, IPC, was lodged against father of the petitioner-wife by the maternal aunt of the respondent-husband at Kapurthala.

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, were 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 that a petition under Section 125, Cr.P.C., is pending adjudication within the jurisdiction of Sessions Division, Amritsar, and an FIR for the offence punishable under Section 498-A, IPC, has also been lodged against the respondent-husband and his family members by the petitioner-wife, which is pending investigation before the police at Baba Bakala, District Amritsar. As per learned counsel for the petitioner, her father is suffering from Tuberculosis and there is no other adult male member to accompany the petitioner to go to Kapurthala on each date of hearing of the case filed by the respondent-husband. The submission of learned counsel for the respondent-husband that the petitioner-wife had to go to Kapurthala from Baba Bakala, which is at a distance of 30 Kms., would not be the only criteria to judge as to whether the case

should be transferred from one place to another. The other circumstances have also to be taken into consideration.

In view of the ratio of the judgments delivered by Hon'ble the Supreme Court and this Court as well as keeping in view the circumstances explained by learned counsel for the petitioner-wife, the present petition is allowed. The case titled as "Gurkirpal Singh v. Parveen Kaur", filed under Section 13 of the Act by the respondent-husband, is transferred from the Board of learned District Judge, Kapurthala, to the Court of learned District Judge, Amritsar, who shall either try the case himself or assign the same to any other Court of competent jurisdiction within Sessions Division, Amritsar.

Learned District Judge, Kapurthala, shall send the complete record of the case "Gurkirpal Singh v. Parveen Kaur", filed under Section 13 of the Act by the respondent-husband, to the office of learned District Judge, Amritsar, immediately.

The parties to the *lis* are directed to appear before learned District Judge, Amritsar, on 17.8.2015, at 10:00 a.m., for further proceedings.

Disposed of accordingly.

(NARESH KUMAR SANGHI)
JUDGE

July 16, 2015
Pkapoor