

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

TA No.329 of 2014 (O&M).

Date of Decision: 25.08.2015.

Rajni

....Petitioner.

VERSUS

Akashdeep

....Respondent.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. S.K. Chaudhary, Advocate for the petitioner.

Mr. Munish Puri, Advocate for the respondent.

SNEH PRASHAR, J.

This is a petition by wife-petitioner Smt. Rajni under Section 24 read with Section 151 of the Code of Civil Procedure (for short, “C.P.C.”) seeking transfer of the petition filed under Section 9 of the Hindu Marriage Act, 1955 (for short, “the Act of 1955”) by respondent-husband from the Court of Civil Judge (Senior Division, Amritsar to the Court of competent jurisdiction at Pathankot.

The submissions made by learned counsel representing the petitioner and learned counsel representing the respondent have been considered.

As per the pleas raised by the petitioner, she was married to the respondent on 30.04.2013 at Pathankot as per Hindu rites and ceremonies. She was maltreated by the respondent and his family members and ultimately on 14.07.2013 she was thrown out of the matrimonial home and since then she is residing at Pathankot at the mercy of her brothers.

Learned counsel for the petitioner argued that having faced the cruelty at the hands of the respondent and his family members the petitioner was constrained to file a petition claiming maintenance under Section 125 of the Code of Criminal Procedure at Pathankot. On her complaint, a criminal case bearing First Information Report No.173 dated 03.12.2013 under Section 498-A, 406, 120-B of the Indian Penal Code was registered at Police Station Division No.2, Pathankot. Respondent has since filed a petition under Section 9 of the Act of 1955, which is pending adjudication in the court of Civil Judge (Senior Division), Amritsar.

Submitting that the petitioner is a poor lady and has no independent source of income and is residing at the mercy of her brothers and that two cases arising out of the marital dispute are already pending at Pathankot, learned counsel sought transfer of the petition filed under Section 9 of the Act of 1955 pending before Civil Judge (Senior Division), Amritsar to District Courts, Pathankot.

Learned counsel for the respondent resisted the prayer of the petitioner on the ground that the petitioner had herself left the conjugal company of the respondent of her own volition and enjoys good health for travelling from one place to other.

Admittedly, the petitioner is presently residing with her brothers at Pathankot. Two cases arising out of the marital dispute between the parties are already pending at Pathankot. The petitioner fears threat perception in travelling alone to Amritsar. The distance between Amritsar and Pathankot is about 120 kilometers 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.

In view of the facts discussed above, the petition filed by the respondent under Section 9 of the Act of 1955 pending in the court of learned Civil Judge (Senior Division), Amritsar is withdrawn from the said court and is transferred to the court of competent jurisdiction at Pathankot. The file shall be sent by the trial court to the court of District and Sessions Judge, Pathankot 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 Pathankot.

The parties are directed to appear before the District Judge, Pathankot on 28.09.2015.

By way of order dated 03.07.2015, allowing one opportunity to respondent-husband to argue the matter, a costs of Rs.2500/- to be paid to the petitioner-wife, was imposed on the respondent-husband. Since that amount could not be paid to the petitioner-wife as she was not present in the Court today, the respondent-husband is directed to submit a demand draft of

Rs.2500/- in the name of the petitioner-wife to be handed over to her before the Court to whom the petition under Section 9 of the Act of 1955 is assigned for trial at District Court, Pathankot.

(SNEH PRASHAR)
JUDGE

25.08.2015.
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