

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

TA-345-2014 (O&M)
Date of Decision: July 24, 2015

Sonia Rani

...Petitioner

Versus

Balvinder

...Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Ms. Preeti Sharma, Advocate,
for the petitioner.

Mr. B.S. Bairagi, Advocate,
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 read with Section 151 of the Code of Civil Procedure, 1908, is for transfer of the petition, titled as "Balvinder Singh v. Sonia Rani", filed under Section 13 of the Hindu Marriage Act, 1955 (for brevity, 'the Act'), from the Court of learned Additional District Judge, Patiala, to a Court of competent jurisdiction at Yamunanagar at Jagadhari.

Ms. Preeti Sharma, learned counsel for the petitioner-wife, points out that the marriages of the petitioner and her sister

were solemnized with the respondent-husband and his brother respectively. Due to the greedy nature of their respective husbands and the in-laws, they were always harassing both the sisters on account of demand of dowry. The petitioner-wife was forced to leave the matrimonial house at Patiala and, as such, she had to take shelter at her parental house at Yamunanagar, which is at a distance of more than 100 Kms. from Patiala. She further submits that the petitioner-wife was constrained to file a petition under Section 125, Cr.P.C., for claiming maintenance since she had no resources to maintain herself. The petitioner-wife had also filed a complaint under Section 12 of the Protection of Women from Domestic Violence Act, 2005, before the Court at Yamunanagar and both the said cases are pending adjudication. It has also been pointed out that at the behest of the petitioner criminal complaint was submitted to the police, on the basis of which a case under Section 498-A IPC etc. has been registered against the respondent-husband and his family members and the said case is also pending within the jurisdiction of Tehsil and District Yamunanagar.

Learned counsel further points out that the petitioner being a lady has no resources to go to Patiala from Yamunanagar to defend the case filed by the respondent-husband on each and every date of hearing.

Learned counsel for the respondent-husband submits

that the petitioner-wife and her sister had beaten the father of the respondent thereby causing grievous injury on his leg. A criminal complaint has been filed before the Court of competent jurisdiction at Patiala, which is pending adjudication. He further points out that younger brother of the respondent-husband has been granted a decree of divorce against the sister of the petitioner-wife. He prays that the petition be not transferred from Patiala to Yamunanagar.

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).

There appears to be substance in the submissions made by learned counsel for the petitioner-wife when she has pointed out that the petitioner has no resources to go to Patiala on each and every date of hearing to defend the case filed by the respondent-husband. A petition under Section 125, Cr.P.C., a complaint under Section 12 of the Protection of Women from Domestic Violence Act, 2005, and a criminal case under Section 498-A IPC etc. are pending against the respondent-husband and his family members at Yamunanagar.

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 "Balvinder Singh v. Sonia Rani", filed under Section 13 of the Act by the respondent-husband, is transferred from the Board of learned Additional District Judge, Patiala, to the Court of learned District Judge, Yamunanagar at Jagadhari, who shall either try the case himself or assign the same to any other Court of competent jurisdiction within Sessions Division, Yamunanagar at Jagadhari.

Learned Additional District Judge, Patiala, shall send the complete record of the case “Balvinder Singh v. Sonia Rani”, filed under Section 13 of the Act by the respondent-husband, to the Court of learned District Judge, Yamunanagar at Jagadhari, immediately.

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

Disposed of accordingly.

(NARESH KUMAR SANGHI)
JUDGE

July 24, 2015
Pkapoor