

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

TA No.380 of 2014.

Decided on:-February 11, 2015.

Harpreet Kaur Khalsa.

.....Petitioner.

Versus

Kawaldeep Singh.

.....Respondent.

CORAM: *HON'BLE MR. JUSTICE DR. BHARAT BHUSHAN PARSOON.*

Argued by:- Mr. Rahul Rampal, Advocate
for the petitioner.

Mr. G.S. Gandhi, Advocate
for the respondent.

Dr. Bharat Bhushan Parsoon, J.

In this transfer application, the wife, petitioner herein, seeks transfer of petition under Section 12 of the Hindu Marriage Act, 1955 (hereinafter mentioned as the Act) filed by the husband, respondent herein, from Patiala to Amritsar on the grounds that she is living with her old father and there is no other male member to accompany her on each and every date of hearing to travel a distance of 250 Kms. It is also claimed that the husband is also facing two other cases at Amritsar i.e. a criminal case registered, interalia, under Section 498-A IPC as also a petition under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (for short, the Act of 2005).

2. This petition has been contested tooth and nail by the husband, respondent herein, claiming that the petitioner-wife is a preacher with the Shiromani Gurdwara Prabandhak Committee, Amritsar and widely travels and thus, is not a novice finding it difficult to pursue her case at Patiala.

3. Arguments have been heard.

4. There is no denying the fact that the petitioner-wife is a resident of Amritsar. It is also a conceded fact that the husband is already facing two more litigations at Amritsar. Counsel for the respondent-husband has urged that the petition is frivolous and the marriage itself was based on fraud and thus, has been challenged by the husband. Counsel for the respondent-husband has cited ***Preeti Sharma Versus Manjit Sharma (2005) 11 Supreme Court Cases 535*** and ***Gurjeet Bajaj Versus Rishi Dua 2012(3) RCR (Civil) 941 (P&H)***. In these authorities, it was held that merely because the petitioner was a lady, was no ground to accept her prayer for transfer.

5. Merits of the petition under Section 12 of the Act of 2005 initiated by the husband cannot be gone into in this transfer application.

6. Counsel for the petitioner-wife, on the other hand, has cited ***Deepti Bhandari Versus Nitin Bhandari and another 2012(1) RCR (Civil) 506 (SC)*** wherein it was held that when four cases (two criminal and two civil) were pending between the parties at Jaipur, but the wife was shifting to Delhi, it was held that it would be easier for the husband to attend the proceedings at Delhi than for the petitioner-wife to attend the same at Jaipur. In ***Milli Versus Mukesh Kumar 2005(4) RCR (Civil) 422 (P&H)***, it was held that in transfer of criminal cases, convenience of the wife has to be given paramount consideration. Reliance was also placed on ***Sumita Singh Versus Kumar Sanjay and another AIR 2002 Supreme Court 396*** and ***Neelam Kanwar Versus Devinder Singh Kanwar 2001(1) M.L.J. 509 (SC)***.

Support has also been sought from *Sapna Agarwal Versus Om Prakash Jalan 2009(1) RCR (Civil) 511 (SC)* where a divorce petition pending before Family Court at Cuttack was transferred to Family Court at Jaipur where the wife was residing. Support has also been sought from *Smt. Yatna alia Rachna Versus Rajesh Jain 2005(4) RCR (Civil) 299 (P&H)*.

7. In the present case, when two other cases i.e. a criminal case registered, interalia, under Section 498-A IPC as also a petition under Section 12 of the Act of 2005 are being faced by the husband at Amritsar, why the husband has chosen to file the petition under Section 12 of the Act at Patiala itself is an indication that it has been filed to humiliate, harass and dwarf the petitioner-wife.

8. Keeping in view the facts and circumstances as explained earlier, the request is allowed.

9. Sequelly, the petition under Section 12 of the Act pending at Patiala is transferred to District Judge, Amritsar who may further transfer the same to any court of competent jurisdiction at Amritsar. Both the concerned District Judges to comply.

10. Disposed of accordingly.

11. Copy Dasti on usual charges.

(Dr. Bharat Bhushan Parsoon)
Judge

February 11, 2015
'Yag Dutt'

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