

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

TA No.382 of 2014.

Date of Decision: 20.10.2015.

Kanwar Rajni

....Petitioner.

VERSUS

Kamaldeep Singh

....Respondent.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. G.S. Guri, Advocate for the petitioner.

None for the respondent.

SNEH PRASHAR, J.

This petition under Section 24 of the Code of Civil Procedure was filed by petitioner Kanwar Rajni-wife seeking transfer of the petition filed under Section 26 of the Hindu Marriage Act, 1955 (for short, “the Act of 1955”) by the respondent, from the court of Additional Civil Judge (Senior Division), Jagraon to the court of competent jurisdiction at Chandigarh.

Despite service of dasti notice on the respondent, he did not opt to appear and contest the petition.

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

It is submitted on behalf of the petitioner that she was married to the respondent on 28.04.2007 as per Sikh rites and ceremonies at Nabha, District Patiala and a daughter namely, Arshpreet Kaur was born out of their wedlock on 18.12.2008. Before marriage, the petitioner was doing job in Chandigarh Home Guard on daily wages and respondent was serving in Army. It was agreed that after marriage she will continue with her job. However, the behaviour of the respondent and his family members towards the petitioner was not good. On a complaint filed by her, D.D.R. No.68 dated 19.11.2012 under Section 107/151 of the Code of Criminal Procedure was registered against the respondent but the matter was compromised. Even thereafter the respondent did not mend his ways.

Learned counsel pointed out that the earlier petition under Section 9 of the Act of 1955 filed by the respondent was transferred from Jagraon to Chandigarh. The respondent has since filed a petition under Section 26 of the Act of 1955 for custody of minor daughter namely Arshpreet Kaur, which is pending adjudication in the court of Additional Civil Judge (Senior Division), Jagraon, District Ludhiana. Submitting that the distance between Chandigarh to Jagraon is about 135 kilometers and it will be inconvenient for the petitioner to travel such long distance alongwith the minor child on every date of hearing, learned counsel sought transfer of the petition to Chandigarh.

Admittedly, the petitioner alongwith her minor daughter is

residing at village Khuda Lahora, Chandigarh. The earlier petition under Section 9 of the Act of 1955 filed by the respondent has already been transferred to Chandigarh. 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.

The distance between Chandigarh and Jagraon is about 135 kilometers. It will indeed be inconvenient/difficult for the petitioner to travel with the minor child from Chandigarh to Jagraon and unnecessarily spend on travelling when one case arising out of the marital discord between the parties is already pending at Chandigarh.

Accordingly, considering all facts, the petition filed by the respondent under Section 26 of the Act of 1955 pending in the court of learned Additional Civil Judge (Senior Division), Jagraon is withdrawn from the said court and is transferred to the court of competent jurisdiction at Chandigarh. The file shall be sent by the trial court to the court of District and Sessions Judge, Chandigarh within two weeks from the date of receipt of copy of this order, who will entrust the same to the court of competent jurisdiction at Chandigarh.

The parties are directed to appear before the District Judge, Chandigarh on 28.11.2015.

(SNEH PRASHAR)
JUDGE

20.10.2015.
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