

TA-418-2014

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

TA-418-2014

Date of decision:14.9.2015

Bavita Wassan

...Applicant

Versus

Deepak Kumar

...Respondent

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.HS Jalal, Advocate for the applicant

Respondent ex-parte vide
order dated 23.7.2015

SNEH PRASHAR, J.

This is an application by applicant-wife under Section 24 of the Code of Civil Procedure seeking transfer of petition under Section 9 of the Hindu Marriage Act (for short 'the Act') titled as “Deepak Kumar vs. Bavita Wassan” filed by respondent-husband from the court of learned Civil Judge (Jr.Divn.), Bathinda to the court of competent jurisdiction at Pathankot.

The submissions made by learned counsel for the applicant-wife have been heard.

It is submitted on behalf of applicant that having faced the cruelty and harassment at the hands of respondent-husband and his family members, the applicant filed a criminal complaint before the

Senior Superintendent of Police, Pathankot for registration of a case against them. Having been ousted from the matrimonial home and there being no source of livelihood, she filed a petition under Section 125 of the Code of Criminal Procedure against the respondent for grant of maintenance pendente lite, which is pending at Pathankot. A daughter born out of the wedlock of the parties is also being taken care of by her. The distance between Pathankot and Bathinda is approximately 300 Kms and it is inconvenient for the applicant to travel such a long distance alongwith the minor daughter to defend the petition filed by the respondent-husband.

The settled principle of law is that convenience of the wife is to be seen in the matters filed by the husband against the wife as held by the Hon'ble Supreme Court in the cases of **Sumita Singh vs. Kumar Sanjay and another, AIR 2002 SC 396, Neelam Kanwar vs Devinder Singh Kanwar, 2001(1) M.L.J. 509 (SC), and Mangla Patil Kale vs. Sanjeev Kumar (2003) 10 SCC 280.**

In the instant case, because of marital discord admittedly the applicant is residing with her parents at Pathankot. A complaint filed by her against the respondent and his family members as well as a petition under Section 125 Cr.P.C. are pending at Pathankot. She is having no source of income and is saddled with the responsibility of raising her minor daughter. In a dispute between the husband and the wife, normally the wife is at the receiving end. It would indeed, be very difficult for the applicant to travel from Pathankot to Bathinda alongwith the minor

daughter and the expenses for travelling will also be an additional financial burden on her.

In the above premises, the instant transfer application is allowed. Petition under Section 9 of the Act titled as “Deepak Kumar vs. Bavita Wassan” is withdrawn from the Court of learned Civil Judge (Jr.Divn.), Bathinda and is transferred to the court of competent jurisdiction at District Judge, Pathankot, who will either keep the petition either himself/ herself or entrust it to any Court of competent jurisdiction at Pathankot. The complete record pertaining to the case in question shall be sent by the trial Court at Bathinda to the learned District Judge, Pathankot, within two weeks from the date of receipt of a copy of this Order.

The parties shall appear before the Court of District Judge, Pathankot on 12.10.2015.

14.9.2015
gsv

(SNEH PRASHAR)
JUDGE