

TA-423-2014 (O&M)

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

TA-423-2014 (O&M)

Date of Decision: July 13, 2015

Sharanjit Kaur

.....Petitioner

Versus

Gurdeep Singh

.....Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr.S.S.Gill, Advocate
for the petitioner.

None for the respondent.

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

NARESH KUMAR SANGHI, J.(ORAL)

The present petition has been filed under Section 24 of the Code of Civil Procedure for transfer of petition titled “**Gurdeep Singh vs. Sharanjit Kaur**”, under Section 9 of the Hindu Marriage Act, 1955, (for brevity, `the Act') from the Court of learned Additional Civil Judge (Senior Division) Dhuri, District Sangrur to the board of learned Additional Civil Judge (Senior Division) Payal, District Ludhiana.

Learned counsel contends that the marriage of the petitioner with the respondent was solemnized in the year 2007 and they were blessed with a son. Due to harsh nature of the respondent-husband, it was not practicable for the petitioner-wife to live with him. The petitioner was thrown out of the matrimonial house and she along with her minor son had to take shelter at village Ajnoud, Tehsil Payal, District Ludhiana. An application under Section 125, Cr.P.C. was presented before learned Judicial Magistrate, Ludhiana, which was later on transferred to the Court at Payal. Interim maintenance was granted in favour of the petitioner. The respondent-husband did not pay interim maintenance to the wife (petitioner) and as such, on the prayer of the petitioner he (husband-respondent) was sent to jail also. The petitioner had also filed an application under Section 125(3), Cr.P.C for the recovery of interim maintenance which is pending adjudication at Payal. It has also been contended that the petitioner has no means to go to Dhuri to defend the petition under Section 9 of the Act filed by the husband-respondent against the petitioner. He submits that the petition under Section 9 of the Act be transferred to Payal District Ludhiana.

On the last date of hearing the respondent had

appeared in person but today no one has put in appearance on his behalf. It appears that he is not interested in pursuing the case further.

I have heard the learned counsel for the petitioner and with his 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 Hindu Marriage Act, 1955, all proceedings under the said Act have to be tried by the same Court, therefore, a petition under Section 13 of the Hindu Marriage Act filed by the respondent has to be tried by the same court which is 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,

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decided on 09.05.2012) and Leena Kalra @ Lovely v. Parveen Kumar (TA No. 381 of 2014, decided on 30.03.2015).

After hearing the learned counsel for the petitioner and going through the law on the subject, this Court is of the considered opinion that the case titled "**Gurdeep Singh vs. Sharanjit Kaur**", under Section 9 of the Act, pending adjudication before learned Additional Civil Judge (Senior Division) Dhuri should be transferred to a Court of competent jurisdiction at Payal, District Ludhiana, and, as such, the same is transferred to the Court of learned Additional Civil Judge (Senior Division) Payal, District Ludhiana, for adjudication in accordance with law.

Learned Additional Civil Judge (Senior Division) Dhuri, District Sangrur, shall remit the complete record of the case to the transferee Court immediately.

Parties to the *lis* are directed to appear before learned Additional Civil Judge (Senior Division) Payal, Ludhiana, on 13.08.2015 at 10.00 a.m. for further proceedings.

Disposed of accordingly

July 13, 2015
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(NARESH KUMAR SANGHI)
JUDGE