

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

Transfer Application No.424 of 2014

Date of decision: 06.04.2015

Khushdeep Kaur

... Petitioner

versus

Amrit Preet Singh

.... Respondent

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Ms. Swati Batra, Advocate,
for the petitioner.

Mr. HPS Ghuman, Advocate,
for the respondent.

K.Kannan, J. (Oral)

1. The petition for transfer of matrimonial proceedings initiated at the instance of the husband who is living abroad but who has filed case at Kapurthala, is sought by the wife on the ground that there is a petition for custody of the child already pending in the court at Sangrur and also another case of a criminal complaint under Section 498-A of the Indian Penal Code before the court at Sangrur. It appears that there is also a fresh petition filed under Section 125 Cr.P.C. after the filing of the matrimonial proceedings before the court at Sangrur.

2. At the previous hearing, this court has noticed that the respondent has not filed reply and has declined to grant time. The counsel for the respondent, however, wants me to see the order

passed by this court at the time when notice was issued that the parties could explore the possibilities of settlement. When the respondent's plea was deflected to the counsel for the petitioner for consideration, the counsel states that the talks of compromise had already been taken up at the time when the proceedings were pending before Sangrur and they have not yielded any fruit. The counsel says that the petitioner would not want to go through the same process before this court.

3. In matrimonial proceedings, any talk of compromise is ideally undertaken before all pleadings are put in court so that the parties do not harden their positions and make them difficult for settlement. The Supreme Court has laid down the appropriate times when the references to settlement would be made in **Afcons Infrastructure Limited and another Versus Cherian Varkey Construction Company Private Limited and others-2010(8) SCC 24** and has given directives to trial Courts to make reference at the appropriate time as follows:-

“Though in civil suits, the appropriate stage for considering reference to ADR processes is after the completion of pleadings, in family disputes or matrimonial cases, the position can be slightly different. In those cases, the relationship becomes hostile on account of the various allegations in the petition against the spouse. The hostility will be further aggravated by the counter-allegations made by the respondent in his or

her written statement or objections. Therefore, as far as Family Courts are concerned, the ideal stage for mediation will be immediately after service of respondent and before the respondent files objections/written statements. Be that as it may.”

4. If the parties have gone through a particular process previously, I cannot now force the petitioner to undertake an exercise if she is not herself willing. This is not to state that the power that the trial court has, will not be exercised if it finds that there are circumstances for a compromise. There shall be however endeavour of a trial Court to ensure that the family disputes are given appropriate consideration for settlement in the manner Order 32-A of the Civil Procedure Code enjoins.

5. The proceedings pending before the court at Kapurthala is ordered to be transferred to the District Court at Sangrur for disposal in accordance with law. The court may consolidate the petitions filed for custody of the child along with the petition for restitution of conjugal rights as sought by the husband.

6. The civil revision is disposed of with the above directions.

7. Parties shall appear before the court at Sangrur on 02.05.2015.

(K.KANNAN)
JUDGE

06.04.2015
sanjeev