

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

TA No.428 of 2014 (O&M).
Date of Decision: 01.10.2015.

Anu Garg		Petitioner.
	VERSUS	
Chander Mohan Kansal		Respondent.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Vijay Sharma, Advocate for the petitioner.

Mr. Mandeep Kumar, Advocate for the respondent.

SNEH PRASHAR, J.

CM-5456-CII-2015

Allowed as prayed for.

TA-428-2014

This petition under Section 24 of the Code of Civil Procedure was filed by Smt. Anu Garg-wife seeking transfer of the petition filed under Section 13 of the Hindu Marriage Act, 1955 (for short, "the Act of 1955") by respondent-husband from the Court of Additional District Judge, Sangrur to the Court of competent jurisdiction at Patiala.

The submissions made by Mr. Vijay Sharma, learned counsel representing the petitioner and Mr. Mandeep Kumar, learned counsel representing the respondent have been heard.

It is submitted on behalf of the petitioner that she was married

to the respondent on 29.11.2008. After marriage, she was treated with cruelty by the respondent-husband and his family members and ultimately on 01.02.2009 was forced to leave the matrimonial home and since then is residing with her parents. A female child was born out of the wedlock on 04.09.2009. She filed a petition claiming maintenance under Section 125 of the Code of Criminal Procedure (for short, "Cr.P.C.") against the respondent which was allowed but the respondent has not paid the arrears of maintenance. Respondent has since instituted a petition under Section 13 of the Act of 1955, which is pending adjudication in the Court of Additional District Judge, Sangrur. Submitting that the petitioner is a housewife and has no independent source of income and alongwith her minor child is residing at the mercy of her parents, learned counsel sought transfer of the petition from Sangrur to Patiala.

Learned counsel for the respondent resisted the prayer of the petitioner on the ground that she had left the conjugal company of the respondent of her own volition and enjoys good health for travelling from one place to other. Learned counsel submitted that the arrears of maintenance to the tune of Rs.30,000/- as reflected in the order dated 20.08.2015 have been paid by the respondent to the petitioner during execution proceedings of order passed under Section 125 Cr.P.C. pending before Judicial Magistrate, Patiala.

Presently, due to the marital discord the petitioner is residing with her parents at Patiala. The distance between Patiala and Sangrur is about 60 kilometers. The petitioner has a small child and it will, indeed, be

difficult for her to attend the hearings before the Court by travelling such a long distance alongwith the child and the expenses for travelling will also be an additional financial burden on her. 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.

Accordingly, considering the facts discussed above, the petition filed by the respondent under Section 13 of the Act of 1955 pending in the Court of learned Additional District Judge, Sangrur is withdrawn from the said Court and is transferred to the Court of competent jurisdiction at Patiala. The file shall be sent by the trial Court to the Court of District and Sessions Judge, Patiala within two weeks from the date of receipt of copy of this order, who will either keep the petition himself/herself or will entrust the same to any other Court of competent jurisdiction at Patiala.

The parties are directed to appear before the District Judge, Patiala on 16.11.2015.

(SNEH PRASHAR)
JUDGE

01.10.2015.
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