

TA-436-2014

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

TA-436-2014

Date of decision: 26.8.2015

Rajni

...Applicant

Versus

Pushkar Bhandari

...Respondent

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.RK Dadwal, Advocate for the applicant
Mr.Satish Kumar, Advocate for the respondent

SNEH PRASHAR, J.

This is a petition by applicant -wife under Section 24 of the Code of Civil Procedure (for short ' CPC') seeking transfer of petition titled as “Pushkar Bhandari vs. Rajni” filed under Section 9 of the Hindu Marriage Act, 1955 (for short 'the Act') by respondent-husband from the court of learned Civil Judge (Sr.Divn.) Gurdaspur to the court of competent jurisdiction at Amritsar.

Heard the arguments made by Mr.RK Dadwal, Counsel for the applicant and Mr.Satish Kumar, Advocate for the respondent.

The pleas raised by the applicant reveal that she was married to the respondent on 17.7.2011 at Amritsar as per Hindu rites and ceremonies. They cohabited as husband and wife and out of the wedlock a male child was born. She was maltreated by the respondent and his family members and ultimately in the year 2014

she alongwith her son was thrown out of the matrimonial home and since then, she is residing at Amritsar in her parental home.

It was submitted on behalf of applicant that having faced the cruelty and harassment at the hands of respondent-husband and his family members, the petitioner filed a petition under Section 125 of the Code of Criminal Procedure claiming maintenance. She filed a petition under the Domestic Violence Act as well as a criminal complaint against the respondent and his family members, which are already pending before the competent authority at Amritsar. Submitting that the applicant is a poor lady and has no independent source of income and is residing at the mercy of parents at Amritsar and that three cases arising out of the matrimonial dispute are already pending at Amritsar, learned counsel prayed for transfer of the petition filed under Section 9 of the Act from the Court of Civil Judge (Sr.Divn.), Gurdaspur to Districts Court, Amritsar.

On the other hand, learned counsel for the respondent-husband resisted the prayer of the applicant on the ground that the applicant had herself left the matrimonial home. The respondent still wants to keep the applicant.

It is well settled principle of law 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 present case, admittedly the applicant is presently residing with her parents at Amritsar. Three cases arising out of matrimonial discord between the parties are already pending at Amritsar. She is having no source of income and saddled with the responsibility of raising her minor child. In a dispute between the husband and the wife, normally the wife is at the receiving end. It would be very difficulty for the applicant to travel from Amritsar to Gurdaspur alongwith her minor child 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 “Pushkar Bhandari vs. Rajni” is withdrawn from the Court of learned Civil Judge (Sr.Divn.), Gurdaspur and is transferred to the court of competent jurisdiction at Amritsar. The complete record pertaining to the case in question shall be sent by the trial Court at Gurdaspur to the learned District Judge, Amritsar, within two weeks from the date of receipt of a copy of this Order. The learned District Judge, Amritsar will either keep the petition himself/ herself or entrust it to any Court of competent jurisdiction at Amritsar.

The parties shall appear before the Court of District Judge, Amritsar, on 28.9.2015.

26.8.2015
gsv

(SNEH PRASHAR)
JUDGE