

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

TA No.517 of 2014.

Date of Decision: 23.09.2015.

Divya Rai

....Petitioner.

VERSUS

Raghu Midha

....Respondent.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Parminder Singh, Advocate for the petitioner.

Mr. I.S. Parmar, Advocate for the respondent.

SNEH PRASHAR, J.

Smt. Divya Rai petitioner-wife, filed this petition under Section 24 read with Section 151 of the Code of Civil Procedure seeking transfer of the petition filed under Section 9 of the Hindu Marriage Act, 1955 (for short, “the Act of 1955”) by respondent-husband from the Court of District Judge, Ludhiana to the Court of competent jurisdiction at Karnal.

The submissions made by Mr. Parminder Singh, learned counsel representing the petitioner and Mr. I.S. Parmar, learned counsel representing the respondent have been heard.

It is submitted on behalf of the petitioner that she was married to the respondent on 15.02.2014 as per Hindu rites and ceremonies at Karnal. Just after two days of marriage, the respondent, under the influence of liquor, committed unnatural act with her and she was not allowed to talk

to her parents and disclose about the maltreatment she was facing at her in-laws place. Ultimately, under forced circumstances, she was brought to her parental home by her parents on 15.06.2014 and since then is residing with them. She filed a petition claiming maintenance under Section 125 of the Code of Criminal Procedure against the respondent which is pending at Karnal. A First Information Report on the complaint filed by her under Section 498-A of the Indian Penal Code has also been registered against the respondent at Karnal. Respondent has since instituted a petition under Section 9 of the Act of 1955, which is pending adjudication in the Court of District Judge, Ludhiana. Submitting that the petitioner is a housewife and has no independent source of income and is residing at the mercy of her parents, learned counsel sought transfer of the petition from Ludhiana to Karnal.

Learned counsel for the respondent resisted the prayer of the petitioner on the ground that he is ready to keep and maintain her but she herself has withdrawn from his conjugal company without any reasonable cause.

Presently, the petitioner is residing with her parents at Karnal. Two cases arising out of the marital discord between the parties are already pending at Karnal. The distance between Karnal and Ludhiana is about 200 kilometers. It will indeed be difficult for the petitioner to attend the hearings before the Court by travelling such long distance 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 9 of the Act of 1955 pending in the Court of learned District Judge, Ludhiana is withdrawn from the said Court and is transferred to the Court of competent jurisdiction at Karnal. The file shall be sent by the trial Court to the Court of District and Sessions Judge, Karnal 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 Karnal.

The parties are directed to appear before the District Judge, Karnal on 30.10.2015.

(SNEH PRASHAR)
JUDGE

23.09.2015.
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