

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Transfer Application No.520 of 2014 (O&M)
Date of Decision: 07.04.2015.

Jyoti
Vs.
...Petitioner

Amandeep Singh
...Respondent.

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr.Aayush Gupta, Advocate
for the petitioner.

Mr.Karan Gupta, Advocate for
Mr. Rakesh Gupta, Advocate
for the respondent.

1. *Whether reporters of Local Papers may be allowed to see the judgement?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the Digest?*

NARESH KUMAR SANGHI, J. (Oral)

The present petition has been filed under Section 24 read with Section 151 of the Code of Civil Procedure Code for transfer of divorce petition No. DMC-638 of 2014 titled as “*Amandeep Singh Vs. Jyoti*” pending on the Board of learned Additional District Judge, Patiala (Sh. Parminder Singh Grewal) to a Competent Court of jurisdiction at Ludhiana.

The learned counsel contends that the marriage of the

parties to the lis was solemnized in the month of September, 2009 and thereafter, they cohabited at Patiala but immediately after the marriage, the respondent-husband went to Australia where he was plying a taxi as per information supplied by him to the petitioner and, thereafter, the respondent and his family members did not take care of the petitioner. When the petitioner objected to the conduct and behaviour of the respondent and his family members, then to get rid of the petitioner, a petition under Section 13 of the Hindu Marriage Act for grant of a decree for divorce was presented before the learned District Judge at Patiala. He further submits that if the petition is transferred to Ludhiana from Patiala, then the respondent-husband would not be prejudiced since he has to go to Patiala or Ludhiana from Australia and the same would not cause any hurdle to him in visiting Ludhiana. It has also been pointed out that the petitioner is a lady and has no means and resources to visit Patiala from Ludhiana on each and every date of hearing to defend the case. The learned counsel has also brought to the notice of the Court that during the pendency of the case, an application under Section 24 of the Hindu Marriage Act was presented and taking into consideration the miserable condition of the petitioner, interim maintenance to the tune of Rs.10,000/- per month

was granted to her.

In support of his contention, the learned counsel for the petitioner has placed reliance on a judgment delivered by this Court in the matter of *Geeta Vs. Vijay Kumar, Transfer Application No.435 of 2014, decided on 31.03.2015.*

The learned counsel for the respondent to repel the arguments of learned counsel for the petitioner submits that the respondent-husband is residing in Australia and the divorce petition filed by him (respondent) is being pursued by his mother, who is old and infirm lady. He further submits that the petitions filed by the petitioner-wife at Ludhiana are just to pressurize the respondent-husband so that he might not pursue his case at Patiala. It has also been argued by the learned counsel for the respondent that special reasons are to be recorded by the Court once a petition is transferred from one place to another.

I have heard learned counsel for the parties and with their assistance gone through the material available on record.

In the matter of *Sumita Singh Vs. Kumar Sanjay & 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 Vs. Manpreet Singh***, Transfer Application No.263 of 2009, decided on 25.11.2009, by a Co-ordinate Bench of this Court held that in terms of Section 21-A of the Hindu Marriage Act, all proceedings under the Hindu Marriage 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 were the pronouncements by this Court in the matters of ***Annu Arora Vs. Rakesh Kumar***, Transfer Application No.648 of 2011, decided on 16.12.2011 and ***Bupinder Kaur Vs. Inderpreet Singh***, Transfer Application No.616 of 2011, decided on 09.05.2012 by a Co-ordinate Bench of this Court. In the matter of “***Leena Kalra @ Lovely Vs. Parveen Kumar***”, Transfer Application No.381 of 2014, decided by this Court on 30.03.2015, the same view was endorsed.

As per the petitioner-wife, there is none in the family to accompany her to Patiala from Ludhiana to attend the case filed by the respondent-husband. It has also been contended that the respondent-husband is residing in Australia and he would have no difficulty in coming to Ludhiana instead of Patiala to attend Court case. The

contention of the learned counsel for the respondent-husband that the divorce petition was filed through the mother by the husband has no legs to stand.

The learned counsel for the petitioner has shown the copy of the petition which was presented before the Court at Ludhiana filed by the respondent himself. The law discussed hereinabove would clearly spell out that the Court has to see the convenience of the lady.

In view of the totality of the facts and circumstances of the case as well as the law discussed hereinabove, the present petition is allowed. The divorce petition No. DMC-638 of 2014 titled “*Amandeep Singh Vs. Jyoti*” pending before the Board of Learned Additional District Judge at Patiala is ordered to be transferred to the Court of learned District Judge, Ludhiana. The learned District Judge, Ludhiana may try the case himself or assign it to any other Court of Competent jurisdiction for disposal in accordance with law.

Learned Additional District Judge, Patiala is further directed to send the complete record relating to the above stated divorce petition to the Court of learned District Judge, Ludhiana immediately.

Petition is, accordingly, allowed.

The parties to the lis shall appear before the learned District

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I attest to the accuracy and
authenticity of this document

Judge, Ludhiana, on 07.05.2015.

(NARESH KUMAR SANGHI)
JUDGE

April 7, 2015
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