

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

T.A.No.555-2014 (O&M)

Date of Decision: March 31, 2015

Gurwinder Kaur

.....Applicant

Versus

Jagmohan Singh

.....Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr.Sarbjit Singh, Advocate
for the applicant.

Mr.B.S.Baath, Advocate
for the respondent.

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1. ***Whether Reporters of local papers may be allowed to see the judgment ?***
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 application under Section 24 of the Civil Procedure Code has been filed by Gurwinder Kaur (wife) for transfer of the divorce petition titled '*Jagmohan Singh vs Gurwinder Kaur*' from the Court of learned Additional District Judge, Gurdaspur, to any Court of competent jurisdiction at Amritsar.

In support of the present petition, Mr.Sarbjit Singh,

Advocate, submits that the applicant -wife had filed a petition under Section 125, Cr.P.C., against the respondent-husband on 05.03.2014, which is pending adjudication before the Court at Amritsar. Similarly, respondent-husband and his family members are facing prosecution under Section 498-A, IPC, etc. before the Court at Amritsar, and that the petition under Section 13 of the Hindu Marriage Act, 1955, filed by the respondent-husband may be ordered to be transferred to Amritsar, so that all the cases are decided at one place. It has also been pointed out that the applicant-wife has a minor child and it would be very difficult for her (applicant-wife) to visit and attend her case on each and every date of hearing at Gurdaspur.

On the other hand, Mr.B.S.Baath, Advocate, for the respondent-husband submits that the distance between Gurdaspur and Amritsar is hardly 45 kms and, as such, the applicant-wife would have no difficulty in visiting Gurdaspur from Amritsar. He further pointed out that due to harassment caused by the applicant-wife, the mother of the respondent-husband had died an unnatural death and, therefore, a case under Section 306, IPC, was registered against the applicant-wife and her other family members.

Learned counsel for the applicant-wife pointed out that the allegations levelled by the respondent-husband for prosecution of the applicant-wife under Section 306, IPC, were found to be false by the Investigating Agency and, as such, no prosecution has been launched against her (applicant-wife).

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

In **Sumita Singh vs Kumar Sanjay**, AIR 2002 SC 396, Hon'ble the Supreme Court held that in transfer of matrimonial proceedings, initiated by husband against wife, the convenience of the wife must be looked at. In the matter of **V.Saliya vs Koteswara Rao**, AIR 2003 AP 178, it was held that in matters concerning the transfer of matrimonial cases, it is the convenience of the wife which has to be taken into consideration.

So far as the factual aspects of the case are concerned, it is conceded by the learned counsel for the respondent-husband that a petition under Section 125, Cr.P.C., and the criminal prosecution under Section 498-A, IPC, are pending against the respondent-husband before the Courts at Amritsar. He further admitted that the applicant-wife has a minor child.

The distance as pointed out by the learned counsel for the respondent-husband would by itself be a no ground to decline the prayer for transfer of the case from Gurdaspur to Amritsar.

In view of the factual and legal aspects of the case, the petition titled '*Jagmohan Singh vs Gurwinder Kaur*' pending before the learned Additional District Judge, Gurdaspur, is transferred to the Board of learned District Judge, Amritsar, who shall try the case himself or assign it to any other Court of competent jurisdiction for disposal in accordance with law.

Learned Additional District Judge, Gurdaspur, is directed to send the complete record of the case to the Court of learned District Judge, Amritsar.

The parties to the lis shall appear before the learned District Judge, Amritsar, on 30.04.2015.

March 31, 2015
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(NARESH KUMAR SANGHI)
JUDGE