

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

TA-556-2014 (O&M)

Date of Decision: August 03, 2015

Natasha

.....Petitioner

Versus

Sonu Sharma

.....Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr.J.S.Bedi, Advocate for
Mr.B.S.Bedi, Advocate
for the petitioner.

Mr.G.C.Shahpuri, 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)

Prayer in this petition filed under Section 24 of the Code of Civil Procedure (for brevity, 'CPC') is for transfer of the petition titled "Sonu Sharma vs Natasha" filed under Section 13 of the Hindu Marriage Act, 1955 (for brevity, 'the 1955 Act') from the Court of learned Additional District Judge, Yamunanagar at Jagadhri to a Court of competent jurisdiction at Ludhiana.

Learned proxy counsel submits that due to harsh

nature of the respondent -husband it was not possible for the petitioner-wife to live any more with him. She was forced to leave the matrimonial house and thereafter she took shelter at her parental house at Ludhiana. Two minor children of the petitioner -wife were forcibly retained by the respondent-husband. The petitioner had filed two cases against the husband arising out of the Protection of Women from Domestic Violence Act, 2005 (for brevity, 'the 2005 Act') and under the Guardians and Wards Act, 1890 (for brevity, 'the 1890 Act') which are pending adjudication at Ludhiana. The distance between Yamunanagar and Ludhiana is 175 kilometres. Except old and infirm father there is no adult male member at her paternal house to accompany the petitioner from Ludhiana to Yamunanagar to defend the case filed by the respondent-husband and that as a matter of principle all the cases arising out of the matrimonial dispute between the same parties be heard and decided by the Courts at one station.

On the other hand, the learned counsel for the respondent-husband submits that interim maintenance of ₹2,500/- (Rupees two thousand and five hundred only) has already been granted in favour of the petitioner-wife. In addition thereto, a sum of ₹8,000/- (Rupees eight thousand only) was granted for litigation expenses. The minor children are residing with the

respondent-husband and, as such, he shall face acute difficulty in carrying both the minor children to Ludhiana on each date of hearing of the case. The case filed under the 1890 Act has been withdrawn by the petitioner-wife.

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

In the matter of **Sumita Singh v. Kumar Sanjay and 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 v. Manpreet Singh** (TA No. 263 of 2009, decided on 25.11.2009), a Co-ordinate Bench of this Court held that in terms of Section 21-A of the 1955 Act, all proceedings under the said Act have to be tried by the same Court, therefore, a petition under Section 13 of the 1955 Act filed by the respondent has to be tried by the same court which is seized of earlier proceedings under Section 9 of the 1955 Act.

Similar view was taken in the matters of **Annu Arora v. Rakesh Kumar** (TA No. 648 of 2011, decided on 16.12.2011); **Bupinder Kaur v. Inderpreet Singh** (TA No. 616 of 2011, decided on 09.05.2012); **Leena Kalra @ Lovely v. Parveen**

Kumar (TA No. 381 of 2014, decided on 30.03.2015); and Suman v. Baldev Singh (TA-637-2013, decided on 03.07.2015).

There appears to be substance in the submission of the learned proxy counsel for the petitioner-wife that all the cases arising out of matrimonial dispute between the same parties should be heard and decided at one station. As per the proxy counsel for the petitioner-wife, one case under the 2005 Act and another under the 1890 Act are pending before the Courts at Ludhiana. The petitioner-wife being a lady, and as there is no adult male member except her father, shall face difficulty in visiting Yamunanagar to defend her case on each date of hearing.

Keeping in view the totality of the facts and circumstances of the case and the ratio of the judgments cited hereinabove the petition titled "Sonu Sharma vs Natasha" is transferred from the Court of Additional District Judge, Yamunanagar at Jagadhri to the Court of learned District Judge, Ludhiana. The transferee Court may retain the case on its own board or assign it to any other Court of competent jurisdiction within its Sessions Division.

Learned District Judge, Yamunanagar at Jagadhri shall send the entire record of the case to the transferee Court immediately.

The parties to the *lis* shall appear before the learned transferee Court on 03.09.2015 at 10.00 a.m.

Disposed of accordingly.

August 03, 2015
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(NARESH KUMAR SANGHI)
JUDGE