

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

TA-594-2014

Date of Decision: July 30, 2015

AMANDEEP KAUR

....PETITIONER

VS

NAVDEEP SINGH

.....RESPONDENT

CORAM: HON'BLE MR.JUSTICE NARESH KUMAR SANGHI

Present: Mr. Mandeep Kumar Dhot Advocate
for the petitioner.

Mr. Harish Chhabra, Advocate
for the respondent.

- 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 read with Section 151 of Civil Procedure Code (for brevity 'CPC') is for transfer of the petition titled as "Navdeep Singh Vs. Amandeep Kaur" filed under Section 9 of Hindu Marriage Act from the Court of learned Additional Civil Judge (Senior Division), Moga to a Court of competent jurisdiction at Chandigarh.

Learned counsel for the petitioner submits that due to harsh nature of the respondent-husband, it was not possible for the petitioner-wife to pull any more with him. Due to the bad behaviour of the husband, the petitioner-wife was forced to leave the matrimonial house and thereafter she had to take shelter at her parental house at Chandigarh. The respondent-husband was already a married person and by concealing the said fact, he solemnized the marriage with the petitioner-wife. A case under Section 498-A of Indian Penal Code filed at the behest of the petitioner-wife against the respondent and his family members is pending before a Court at Chandigarh. She has also filed petition under Section 13 of Hindu Marriage Act for taking divorce from the respondent-husband. The respondent and his family members are extending the threats to the petitioner. He further submits that there is none except her old father at the parental house to accompany her to Moga, which is at the distance of 170 kilometers, on each and every date of hearing of the case filed by the respondent-husband. He submits that the case cited hereinabove be transferred to a competent Court of jurisdiction at Chandigarh.

On the other hand, learned counsel for the respondent submits that respondent is an unemployed person and has no means to go to Chandigarh on each date of hearing to pursue his case. The respondent is undergoing treatment for mental disease and it would not be practicable for him to go to Chandigarh on each date of hearing. He further submits that in fact the threats were being extended by the petitioner to her in-laws and the husband and a

complaint in that regard was presented to the Police at Moga.

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

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 Hindu Marriage Act, 1955, all proceedings under the said 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 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 No.637 of 2013, decided on 03.07.2015).

There appears to be substance in the submissions made by the learned counsel for the petitioner, when it was disclosed that Moga is at a distance of 170 kilometers from Chandigarh; a case

under Section 498A of Indian Penal Code is pending before the Court at Chandigarh against the respondent-husband and his family members and that a petition under Section 13 of Hindu Marriage Act has already been filed by the petitioner for taking divorce from the respondent and as such litigation going between the same parties should be heard and decided at one station.

Keeping in view the totality of facts and circumstances of the case and the ratio of Judgments cited hereinabove, the petition titled as “Navdeep Singh Vs. Amandeep Kaur” under Section 9 of Hindu Marriage Act pending adjudication before learned Additional Civil Judge (Senior Division), Moga is transferred to the Board of learned District Judge, Chandigarh, who shall either try the case himself or assign the same to any other Court of competent jurisdiction within his Sessions Division.

Learned Additional Civil Judge (Senior Division), Moga shall send the complete record of the case to the transferee Court immediately.

The parties to the *lis* shall appear before learned District Judge, Chandigarh on 31.08.2015 at 10:00 am, for further proceedings.

Disposed of accordingly.

July 30, 2015
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(NARESH KUMAR SANGHI)
JUDGE