

IN THE HIGH COURT OF PUNJAB AND HARYANA AT

CHANDIGARH

TA-638-2014 (O&M)

Date of Decision: July 28, 2015

Parul Parmar

...Petitioner

Versus

Maj. Varun Parmar

...Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr. Tarundeep Kumar, Advocate,
for the petitioner.

Mr. Raj Kumar Rana, Advocate,
the respondent.

1. *Whether Reporters of local papers may be allowed to see the judgment?* Yes
2. *To be referred to the Reporters or not?* Yes
3. *Whether the judgment should be reported in the Digest?* Yes

NARESH KUMAR SANGHI, J (Oral)

Prayer in this petition filed under Section 24 of the Code of Civil Procedure, 1908, is for transfer of the petition, titled as “Varun Parmar v. Parul Suri”, filed under Section 13 of the Hindu Marriage Act, 1955 (for brevity, ‘the Act’), from the Court of learned District Judge, Family Court, Ambala, to a Court of competent

jurisdiction at Panchkula.

Learned counsel for the petitioner submits that a case under the provisions of the Protection of Women from Domestic Violence Act, 2005, and another arising out of the First Information Report lodged at the behest of the petitioner-wife are pending against the respondent-husband before the Courts at Panchkula; the petitioner is an un-employed woman; father of the petitioner is a retired person; there is no other person in the matrimonial house of the petitioner to accompany her to Ambala from Panchkula to defend the case filed by the respondent-husband; it would make no difference for the respondent-husband to come to Ambala or to Panchkula from Srinagar (J&K), to pursue his case; and that the distance between Panchkula to Ambala is about 40 Kms., but there is no frequent bus service from Panchkula to Ambala.

On the other hand, learned counsel for the respondent submits that before filing of the present case, the husband and wife were residing at Chandimandir, District Panchkula, and at present the respondent-husband is posted at Srinagar (J&K); the distance between Ambala and Panchkula is hardly 40 Kms. He further submits that the petitioner-wife being a Law Graduate would have no difficulty in travelling such a short distance by public transport from Chandigarh to Ambala, where she is presently residing. In

support of his contentions, learned counsel for the respondent-husband has placed reliance on an order dated 29.4.2005, passed by Hon'ble the Supreme Court in the case of **Preeti Sharma v. Manjit Sharma**, (Transfer Petition (Civil) No. 117-118/2004) and two Single Bench judgments of this Court in the matters of **Surajmukhi v. Chhotu Ram** (TA No. 94 of 2007, decided on 15.12.2008) & **Jasbir Kaur v. Dharminder Singh** (TA No. 268 of 2013, decided on 8.5.2013).

I have heard 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 Act, all proceedings under the Act have to be tried by the same Court, therefore, a petition under Section 13 of the Act, filed by the respondent in the said case, was ordered to be tried by the same court which was 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 3.7.2015).

There appears to be substance in the submission of learned counsel for the petitioner that the respondent-husband is facing trial under Sections 323 and 506 IPC etc. arising out of an FIR registered at Police Station, Chandimandir, District Panchkula, and yet another complaint case under Section 12 of the Protection of Women from Domestic Violence Act, 2005, is pending adjudication before the Courts at Panchkula. The petitioner is an un-employed woman and has no resources to go to Ambala on each and every date of hearing, to defend the case filed by the respondent-husband. There is no adult male member except father, who has retired from service, to accompany her to Ambala. The respondent-husband is posted at Srinagar (J&K), therefore, it would make no difference for him to come to Ambala or to Panchkula to pursue his case.

In the matter of **Preeti Sharma (supra)**, Hon'ble the Supreme Court has declined the prayer of the wife to transfer the

case mainly on the ground that if the petitioner is a lady that by itself is no ground to transfer the case. In the matter of **Surajmukhi (supra)**, a Single Bench of this Court had dismissed the petition on the ground that distance by itself is not a ground to transfer the case. In the matter of **Jasbir Kaur (supra)**, the Coordinate Bench of this Court had declined the prayer for transfer of the case on the ground that there was none except the younger brother of the wife to accompany her to the place where the case was pending. As has been noticed above, in the matter of **Sumita Singh (supra)**, their Lordships' of Hon'ble the Supreme Court had ruled that inconvenience of the wife has to be seen.

Keeping in view the totality of the facts and circumstances of the case and the ratio of the judgments cited herein above, the case titled as “Varun Parmar v. Parul Suri”, filed under Section 13 of the Act by the respondent-husband, is transferred from the Court of learned District Judge, Family Court, Ambala, to the Board of learned District Judge, Panchkula, who shall either try the case himself or assign it to any other Court of competent jurisdiction within his Sessions Division.

Learned District Judge, Family Court, Ambala, shall send the complete record of the case titled as “Varun Parmar v. Parul Suri”, filed under Section 13 of the Act by the respondent-husband,

to the Court of learned District Judge, Panchkula, immediately.

The parties to the *lis* are directed to appear before learned District Judge, Panchkula, on 28.8.2015, at 10:00 a.m., for further proceedings.

Disposed of accordingly.

(NARESH KUMAR SANGHI)
JUDGE

July 28, 2015
P Kapoor