

TA-725-2014 (O&M)

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

TA-725-2014 (O&M)

Date of Decision: August 07, 2015

Shakuntla

.....Petitioner

Versus

Naresh Kumar

.....Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

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

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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, 1908 (for brevity, 'the CPC') is for transfer of the case titled "Naresh Kumar vs Shakuntla" filed under Section 9 of the Hindu Marriage Act, 1955 (for brevity 'the 1955 Act'), from the Court of learned Additional Civil Judge, (Senior Division) Dera Bassi to a Court of competent jurisdiction at Jalandhar.

Learned 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 along with her minor daughter was forced to leave the matrimonial house at Dera Bassi and thereafter she was constrained to take shelter at her paternal house at Jalandhar. Since she had no source of income, therefore, an application under Section 125 of the Code of Criminal Procedure was presented before the learned Court at Jalandhar for grant of maintenance, which is pending adjudication. Since the respondent-husband had caused the simple and grievous injuries to the petitioner-wife, therefore, the matter was reported to the police and an FIR was registered at Jalandhar. The said case is also pending adjudication. Learned counsel further contends that the petitioner being a housewife has no source of income. She is unable to visit Dera Bassi from Jalandhar, which is at a distance of 160 kilometres, on each date of hearing to defend the case filed by the respondent-husband.

Despite service no one has proposed to appear on behalf of the respondent-husband. Therefore, this Court is constrained to pass the order in his absence.

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) and **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).

Since two more cases between the same parties are pending before the learned Courts at Jalandhar, the petitioner being a housewife has no source of income and that Jalandhar is around 160 kilometres from Dera Bassi, therefore, keeping in view the totality of the facts and circumstances of the case and further taking into consideration the ratio of the judgments cited

hereinabove, the petition titled “Naresh Kumar vs Shakuntla” filed under Section 9 of the 1955 Act, pending adjudication before the learned Court of learned Additional Civil Judge, (Senior Division) Dera Bassi is transferred to the board of learned District Judge, Jalandhar, who shall either try the case himself/herself or assign it to any other Court of competent jurisdiction within the Sessions Division, Jalandhar.

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

Parties to the *lis* shall appear before the learned District Judge, Jalandhar, on 08.09.2015 at 10.a.m. for further proceedings.

Disposed of accordingly.

August 07, 2015
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(NARESH KUMAR SANGHI)
JUDGE