

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

Transfer Application No. 760 of 2014 (O&M)

Date of decision : 1.5.2015

Simmi Manchanda @ Sneha

.... Applicant

vs

Hari Om Arora

.... Respondent

Coram: Hon'ble Mr. Justice Rajesh Bindal.

Present: Mr. Rakesh Dhiman, Advocate, for the applicant.

Mr. Sunil Garg, Advocate for the respondent.

Rajesh Bindal, J.

The prayer made in the present application filed by the wife is for transfer of divorce petition titled as 'Hari Om Arora vs Simmi Manchanda @ Sneha' filed by her husband under Section 13 of the Hindu Marriage Act, 1955, pending in the Court of District Judge, Patiala to the court of competent jurisdiction at Gurgaon (Haryana).

It was submitted by learned counsel for the applicant that the applicant was married to the respondent on 25.4.2011. One son born out of the wedlock namely Dhruv Arora, now aged about three years is living with the applicant. After she was turned out from the matrimonial home, she is residing at her parental house. She has no source of income for her livelihood. No maintenance is being paid to her. It is very difficult for her to meet her expenses besides attending the court about 300 kilometers away at Patiala. The respondent-husband is attending the proceedings in the petitions filed by the wife under Section 125 Cr.P.C., under the Protection of Women from Domestic Violence Act, 2005, and FIR No. 939 dated 9.9.2014, under Sections 498-A, 406, 506, 34 IPC, got registered at Police Station, City Gurgaon, by the applicant is also pending at Gurgaon. As the husband is already attending the aforesaid cases at Gurgaon, it will not be difficult for him to attend these proceedings at Gurgaon. The prayer is for

transfer of the aforesaid petition to the court of competent jurisdiction at Gurgaon.

On the other hand, learned counsel for the respondent denied the allegations levelled in the application against him but difficulties to be faced by the wife to attend the proceedings along with minor child could not be disputed by him. He stated that FIR and other cases have been lodged against the respondent only to harass him. It was further submitted that the respondent was earlier doing the private job but nowadays he is unemployed. It will be difficult for him to travel from Patiala to Gurgaon.

Heard learned counsel for the parties and perused the paper book.

It is not disputed by the learned counsel for the respondent that the wife is now residing at Gurgaon with minor son. It is very difficult for her to attend the proceedings at Patiala along with minor child.

The issue regarding transfer of matrimonial proceedings almost in similar circumstances came up for consideration before this Court in a number of cases earlier. It has been the consistent view that primarily convenience of the wife is to be given weightage for ordering transfer of proceedings at or near the place where she is residing. Reference can be made to judgment of this Court in TA No. 110 of 2013 Smt. Pooja vs Sunil decided on 30.4.2015.

Accordingly, the divorce petition filed by the husband at Patiala is transferred to Gurgaon. Parties are directed to appear before the District Judge (Family Court), Gurgaon, on 20.5.2015 for further proceedings.

Further the District Judge, Gurgaon may examine the possibility of assigning different cases to one Court, if that court has the jurisdiction and further the Court(s) concerned should consider the request of the respondent to fix all the cases on same date, if possible.

The application stands disposed of accordingly.

1.5.2015
vs

(Rajesh Bindal)
Judge