

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

Crl. Misc. No.M-35408 of 2015 (O&M)

Date of Decision: 22.08.2016

Varun Kakkar & Ors.

.. Petitioners

Vs.

Sonia Kakkar

.. Respondent

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

**Argued by:- Mr. H.K. Brinda, Advocate
for the petitioners.**

**Mr. A.P. Manchanda, Advocate
for the respondent.**

ANITA CHAUDHRY, J.

Through the instant petition, the petitioners are seeking transfer of the complaint titled as Sonia Kakkar Vs. Varun Kakkar and others, bearing No. 172 dated 07.09.2015, under Section 12 of the Protection of Women from Domestic Violence Act, 2015(for brevity, the D.V. Act), pending before Judicial Magistrate Ist Class, Kurukshetra.

Petitioner No.1 was married to respondent on 25.01.2014 at Shahbad(Kurukshetra). Petitioners No.2 and 3 are the parents-in-law while petitioner No.4 is her brother-in-law. There were temperamental differences and multiple litigation ensued between the parties. The complaint is also the outcome of that dispute.

The petitioners are seeking transfer of the complaint to the Courts at Chandigarh or Ropar. It was pleaded that the respondent has filed the complaint at Shahbad to harass the petitioners. The respondent is working as a Staff Nurse with Government Medical College and Hospital,

Sector-32 and is living at Chandigarh and no inconvenience would be caused to her if the proceedings are transferred to Chandigarh, where another case for custody of the minor daughter is pending.

The prayer has been opposed on the ground that witnesses in the complaint case are of Shahbad and it would be difficult for them to appear in the Courts at Chandigarh or Ropar. It was also pleaded that petitioner No.1 is practising Advocate at Ropar and it will not be possible for the respondent to go over there and contest the case. Allegations were levelled about the conduct of the husband and it was claimed that he had put the respondent to unnecessary litigation.

I have heard learned counsel for the parties and have perused the paper-book.

Learned counsel for the petitioners confined his prayer of transfer of the case to Chandigarh.

It is settled that convenience of wife is of paramount consideration while dealing with transfer petitions. There is no express denial that the respondent is working and residing at Chandigarh. Marriage Certificate, Annexure P-4 shows the respondent to be a resident of Chandigarh. In her Election Card, Annexure P-3 her address of Chandigarh has been given. In the reply filed by the respondent to the divorce petition she has shown herself as a resident of Chandigarh. It has also come on record that another petition filed by petitioner No.1 for custody of the minor child is pending in the Courts at Chandigarh and a petition filed by the husband seeking divorce was filed before Ropar Courts. There will be no inconvenience to them to defend the case at a place where she is posted and actually living. The witnesses in the complaint case have to attend the Court

only for their evidence and it is the parties who have to appear in the Court on each and every date of hearing.

In view of the above, but without expressing any opinion on the allegations and counter allegations made against one another, the complaint case filed under the D.V. Act pending in the Court of Judicial Magistrate, Kurukshetra is transferred to a Court of competent jurisdiction at Chandigarh. It is ordered accordingly.

The District & Sessions Judge, Kurukshetra, shall, soon on communication of this order, transfer the record of above-referred case under the Act to the Court of District & Sessions Judge, Chandigarh, who shall make over the same for hearing and disposal in accordance with law to a Court of competent jurisdiction.

The parties through their respective counsel are directed to appear before the Court of District & Sessions Judge, Chandigarh on 09.09.2016.

August 22, 2016
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(ANITA CHAUDHRY)
JUDGE

Whether speaking/ reasoned

Yes/ No

Whether reportable

Yes/ No