

T.A. No. 525 of 2013

1

In the High Court of Punjab and Haryana at Chandigarh

T.A. No. 525 of 2013

Date of Decision: February 09, 2016

Harpal Kaur

... Applicant

Versus

Lakhbir Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH DHALIWAL

Present: Ms. Harmeet Kaur Sidhu, Advocate for
Mr. H.P.S. Issar, Advocate for the applicant.

None for the respondent.

Paramjeet Singh Dhaliwal, J. (Oral)

On pointing out that the title of the petition under Section 13 of the Hindu Marriage Act (Annexure P-1) appears to be incorrect, the learned counsel has realized the mistake and has produced correct photo copy of the petition which is taken on record.

Instant application has been filed under Section 24 of the Code of Civil Procedure for transfer of petition filed under Section 13 of the Hindu Marriage Act, 1956 titled 'Lakhbir Singh Vs. Harpal Kaur', pending in the Court of learned District Judge, Fatehgarh Sahib to the Court of competent jurisdiction at Sangrur.

I have heard learned counsel for the applicant.

Learned counsel for the applicant contends that the applicant has apprehension to her life and liberty at the hands of the respondent-husband and his family. Learned counsel

further contends that the applicant along with her minor male child is staying with her parents at Village Jabo Majra near Jole Pull, Tehsil Malerkotla, District Sangrur, Punjab. Therefore, it is difficult for the applicant to attend the Courts at Fatehgarh Sahib.

Identical contentions were raised before the Hon'ble Supreme Court in the case of *Anindita Das vs. Srijit Das, (2006) 9 Supreme Court Cases,197.* In the case of *Anindita Das (supra)*, Hon'ble Supreme Court has held as under:-

"3. Even otherwise, it must be seen that at one stage this Court was showing leniency to ladies. But since then it has been found that a large number of transfer petitions are filed by women taking advantage of the leniency shown by this Court. On an average at least 10 to 15 transfer petitions are on board of each court on each admission day. It is, therefore, clear that leniency of this Court is being misused by the women.

5. Except for stating that her health is not good, no particulars are given. On the ground that she is not able to come to Delhi to attend the court on a particular date, she can always apply for exemption and her application will undoubtedly be considered on its merit. Hence, no ground for transfer has been made out.

6. Accordingly, we dismiss the transfer petition. We, however, direct that the respondent shall pay all travel and stay expenses of the petitioner and her companion for each and every occasion when she is required to attend the court at Delhi.

7. The respondent shall send in advance to the

petitioner, money for a 2nd class AC train ticket for herself and a companion. The respondent shall also pay stay expenses of the petitioner and her companion in a 3-star hotel. The trial Court shall ensure that the petitioner has been paid the travel expenses in advance and that the hotel expenses are paid to her on each and every occasion when she is required to attend the Court at Delhi.”

In view of above, no ground for transferring the case has been made out.

At this stage, learned counsel for the applicant submits that as the applicant could not appear before the Court at Fatehgarh Sahib, she may have been proceeded against ex-parte. If that is so, the applicant will be at liberty to move an application before the trial Court for setting-aside ex-parte proceedings. It is directed that the application will be considered sympathetically and if any ex-parte proceedings have been taken in pursuance of the service effected, one opportunity shall be afforded to the applicant for filing her reply, if such an application for setting-aside ex-parte proceedings is moved.

Dismissed. However, petitioner will be at liberty to move an appropriate application before the trial Court in view of judgment rendered by Hon'ble Supreme Court in *Anindita Das (supra)*.

February 09, 2016
kanchan

[Paramjeet Singh Dhaliwal]
Judge