

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

TA No.236 of 2016

Date of decision: 24.05.2016

Ritu

... Applicant

Vs.

Vijay Kumar

... Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Rahul Bhargava, Advocate
for the applicant.

None for the respondent.

1. Whether reporters of local papers may be allowed to see the judgment? YES/NO
2. To be referred to the reporters or not? YES/NO
3. Whether the judgment should be reported in the digest? YES/NO

RAMESHWAR SINGH MALIK, J. (ORAL)

Applicant-wife is seeking transfer of a divorce petition filed by the respondent-husband from Kapurthala to Amritsar, by way of present transfer application under Section 24 read with Section 151 of the Code of Civil Procedure.

Notice of motion was issued and in the meantime, further proceedings before the learned trial Court at Kapurthala were stayed.

As per office report, service is complete, however, nobody has come present on behalf of the respondent to contest the present transfer application.

Heard learned counsel for the applicant.

It has gone undisputed before this Court that there is one child out of this wedlock. Applicant-wife, along with her minor child, is staying with her parents at Amritsar. Neither the applicant-wife is having any regular source of income nor the respondent-husband is regularly paying any amount of maintenance either for the applicant-wife or for the child. Distance between Kapurthala and Amritsar is more than 70 kilometers.

In view of the abovesaid undisputed fact situation obtaining in the present case, this Court feels no hesitation to conclude that instant transfer application deserves to be allowed. It is so said because responsibility of the wife to bring up the child, her financial status, her source of income, conduct of the respondent-husband in not regularly paying the amount of maintenance and distance between two places, besides the convenience of the wife, are some of the relevant considerations for deciding the transfer applications, like the present one.

The abovesaid view taken by this Court also finds support from the order dated 16.03.2016 passed by this Court in TA No.945 of 2015 (Sushma and others Vs. Kapil @ Sahil Bansal), which, in turn, was based on the judgments of the Hon'ble Supreme Court, as well as different High Courts, including this Court.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that instant transfer application deserves to be accepted and the same is hereby allowed. Divorce petition bearing case No.HMA No.358/08.09.2015 titled as Vijay Kumar Vs. Ritu filed by the respondent-

husband, is ordered to be transferred from Kapurthala to Amritsar.

Accordingly, learned District Judge, Kapurthala is directed to send the complete record of the abovesaid divorce petition, to the learned District Judge, Amritsar at an early date and in any case within a period of one month from the date of receipt of certified copy of this order.

Learned District Judge, Amritsar is also directed either to decide the case himself or assign it to the learned Court of competent jurisdiction for its early decision, in accordance with law.

With the abovesaid observations made and directions issued, instant transfer application stands disposed of, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
JUDGE

24.05.2016
vishnu