

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT
CHANDIGARH**

**TA No.258 of 2016
Date of decision:30.5.2016**

Pinki @ Pinky

...Applicant

Versus

Kaka Ram

...Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

1. To be referred to the Reporters or not ?
2. Whether the judgment should be reported in the Digest ?

Present: Mr.Naveen Bawa, Advocate for the applicant.
None for the respondent.

RAMESHWAR SINGH MALIK, J. (Oral)

Applicant-wife, by way of instant transfer application under Section 24 of the Code of Civil Procedure, seeks transfer of a petition under Section 9 of the Hindu Marriage Act, 1955 ('the HM Act' for short), filed by the respondent-husband from Chandigarh to Ludhiana.

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

As per office report dated 26.5.2016, dasti notice issued to the respondent through his counsel before the learned trial Court has been received duly served. Further, ordinary notice issued to the respondent has also been received served through his sister-in-law.

Case called twice. However, no one has put in appearance on behalf of the respondent to oppose this 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 living with her parents at Ludhiana. Neither the applicant-wife is having any regular source of income nor the respondent-husband is paying any amount of maintenance either for the applicant-wife or for the minor child. Distance between Chandigarh and Ludhiana is about 100 kilometers.

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

The abovesaid view taken by this Court also finds support from the order dated 16.3.2016 passed by this Court in **TA No.945 of 2015 (Sushma and others v. 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.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that the instant transfer application deserves to be accepted and the same is hereby allowed. The above-said petition under Section 9 of the HM Act, filed by the respondent-husband, is ordered to be transferred from Chandigarh to Ludhiana.

Accordingly, learned District Judge, Chandigarh, is directed to send the complete record of the above-said petition under Section 9 of the HM Act to the learned District Judge, Ludhiana, at an early date and in any case within a period of one month from the date of receipt of a certified copy of this order.

Learned District Judge, Ludhiana, 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 above-said observations made and directions issued, the instant transfer application stands disposed of.

30.5.2016
mks

(RAMESHWAR SINGH MALIK)
JUDGE