

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

TA No. 568 of 2015

Date of decision: 4.4.2016

Poonam

.. Applicants

Vs.

Rajnish

... Respondent

CORAM: HON'BLE MR.JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Amit Kumar Bhardwaj, Advocate
for the applicant.

Mr. S.K. Tripathi, Advocate
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, 1908, seeks transfer of a divorce petition under Section 13 of the Hindu Marriage Act, 1955, ('HM Act' for short), filed by the respondent-husband, from Gurgaon to Karnal.

Notice of motion was issued.

Heard learned counsel for the parties.

It has gone undisputed between the parties that there is a child out of the wedlock. Applicant, alongwith her minor child, is staying with her parents at Karnal. Applicant-wife is not having any regular source of income. The respondent husband is not paying any

amount of maintenance either for the applicant-wife or for the minor child. Distance between Gurgaon and Karnal is more than 130 Kilometers.

In view of the abovesaid fact situation of the present case, this Court feels no hesitation to conclude that divorce petition filed by the respondent-husband at Gurgaon deserves to be transferred to Karnal. It is so said because financial status of the wife, her responsibility for bringing up the children and distance between two places, besides her convenience, are some of the relevant considerations for deciding the transfer application like the present one. The respondent-husband himself filed a divorce petition at Karnal at an earlier point of time which came to be dismissed in default vide order dated 20.9.2014.

The abovesaid view taken by this Court also finds support from the earlier 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.

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 instant application deserves to be accepted and the same is hereby allowed.

Accordingly, the learned District Judge, Gurgaon, is directed to send complete record of the petition under Section 13 of the HM Act filed by the respondent-husband bearing HMA No.

400/15 titled as Rajnish Vs. Punam to the learned District Judge, Karnal, at an early date but in any case within a period of one month from the date of receipt of certified copy of this order.

The learned District Judge, Karnal, is also directed either to decide the case himself or assign it to the court of competent jurisdiction, for an early decision, in accordance with law.

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

**(RAMESHWAR SINGH MALIK)
JUDGE**

4.4.2016
AK Sharma