

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

**TA No. 757 of 2015 (O&M)
Date of decision: 17.5.2016**

Sobia

.. Applicant

Vs.

Samual Masih

... Respondent

CORAM: HON'BLE MR.JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Piyush Sharma, 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, 1908, seeks transfer of a petition under Section 32 of the Indian Divorce Act ('the Act' for short), filed by the respondent-husband, from Gurdaspur to Ferozepur.

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

Although service was complete even on the last date of hearing, i.e. 31.3.2016, yet the respondent was ordered to be served through his counsel before the learned trial court. As per office

report dated 13.5.2016, notice issued to the respondent through his counsel before the learned trial court has been received duly served, however, nobody has come present on behalf of the respondent to contest the instant transfer application.

Heard learned counsel for the applicant.

It has gone undisputed before this Court that there is a child out of this wedlock. Applicant-wife, alongwith her minor child, is staying with her parents at Ferozepur. Neither the applicant-wife is having any regular source of income, nor the respondent-husband is paying any maintenance amount either for the applicant-wife or for the minor child. Distance between Gurdaspur and Ferozepur is more than 200 Kilometers.

In view of the abovesaid undisputed fact situation obtaining in the present case, this Court is of the considered opinion that instant transfer application deserves to be allowed. It is so said because responsibility of the wife for bringing up the children, her financial status, her source of income, conduct of the respondent-husband in not paying the maintenance amount, 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 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.

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. Petition under Section 32 of the Act filed by the respondent-husband titled as Samual Masih Vs. Sobia is ordered to be transferred from Gurdaspur to Ferozepur.

Accordingly, the learned District Judge, Gurdaspur, is directed to send complete record of the abovesaid petition to the learned District Judge, Ferozepur, 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, Ferozepur, is also directed either to decide the case himself or assign it to the learned 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**

17.5.2016
AK Sharma