

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

T.A.No.771 of 2015

Date of Decision:07.04.2016

Menka

.....Applicant

Versus

Rajiv Kumar

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK.

Present: Mr.Vivek Goyal, 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 filed by the respondent-husband under Section 9 of the Hindu Marriage Act, 1955, (in short "H.M.Act") from Mukerian, District Hoshiarpur to Panchkula.

Notice of motion was issued and the proceedings before the learned trial Court were stayed.

Learned counsel for the respondent appeared on 21.01.2016 and the case was adjourned to 27.02.2016. None appeared on 27.02.2016 and the case was adjourned to 16.03.2016. Again, none appeared on behalf of the respondent on 16.03.2016. Similar is the position today. Neither, anybody has come present on behalf of the respondent to contest the transfer application nor any reply has been filed.

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 in her ancestral village in District Panchkula. Applicant-wife is not having any regular source of income. The respondent-husband is not paying any amount of maintenance to the applicant-wife or to the child. Distance between Mukerian, District Hoshiarpur and Panchkula is about 180 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 financial status of the wife, her responsibility for bringing up the child 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 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. The petition under Section 9 of the H.M.Act filed by the respondent-husband, is ordered

to be transferred from Mukerian, District Hoshiarpur to Panchkula.

Accordingly, the learned District and Sessions Judge, Hoshiarpur, is directed to send complete record of the abovesaid petition filed by the respondent-husband under Section 9 of the H.M.Act bearing No.67/2015 titled as Rajiv Kumar Versus Menka”, to the learned District Judge, Panchkula, 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 and Sessions Judge, Panchkula, 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.

April 07, 2016
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(RAMESHWAR SINGH MALIK)
JUDGE