

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT
CHANDIGARH****TA No.855 of 2015
Date of decision:31.3.2016**

Babita Saini

...Applicant

Versus

Amit Kumar

...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.D.S.Kahlon, Advocate for the applicant.
Mr.P.S.Sekhon, Advocate for the respondent.**RAMESHWAR SINGH MALIK, J. (Oral)**

Applicant-wife, by way of instant 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) bearing No.520/2015, filed by the respondent-husband from Ludhiana to Pathankot.

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

Heard learned counsel for the parties.

It has gone undisputed before this Court that there is a one child out of this wedlock. Applicant wife along with her minor child is staying with her parents in her ancestral house in District Pathankot. Respondent-husband is not paying any maintenance amount either to the wife or for the child. Distance between Ludhiana and Pathankot is more than 170 kilometers.

In view of the above-said undisputed fact situation obtaining in the present case, this Court feels no hesitation to conclude that the petition under Section 9 of the HM Act filed by the respondent-husband deserves to be transferred to Pathankot. It is so said because financial status of the applicant-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 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. Petition under Section 9 of the HM Act bearing No. 520/2015, filed by the respondent-husband, is ordered to be transferred from Ludhiana to Pathankot.

Accordingly, learned District Judge, Ludhiana, is directed to send the complete record of the petition under Section 9 of the HM Act to the learned District Judge, Pathankot, 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, Pathankot, is also directed to either 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.

31.3.2016
mks

(RAMESHWAR SINGH MALIK)
JUDGE