

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

TA No.975 of 2015

Date of decision: 01.04.2016

Meenu Sharma

... Applicant

Vs.

Vaibhav Sharma

... Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Gulzar Mohd., Advocate
for the applicant.

Mr. Animesh Sharma, Advocate
for the respondent.

1. Whether reporters of local papers may be allowed to see the judgment? YES/NO
2. To be referred to the reporters or not? YES/NO
3. Whether the judgment should be reported in the digest? YES/NO

RAMESHWAR SINGH MALIK, J. (ORAL)

Applicant-wife, by way of instant application under Section 24 of the Code of Civil Procedure, 1908, seeks transfer of a divorce petition filed by the respondent-husband under Section 13 of the Hindu Marriage Act, 1955 (for short 'HM Act') from Jalandhar to Ferozepur.

Notice of motion was issued. However, no reply has been filed.

Heard learned counsel for the parties.

It has gone undisputed before this Court that there is a child out of this wedlock. Applicant-wife along with her child of tender age is living with her parents at Talwandi Bhai, District Ferozepur. Respondent-husband

is not paying any amount of maintenance either for the applicant-wife or for the child. Applicant-wife is not having any regular source of income. Distance between the place of residence of the applicant and Jalandhar is about 100 kilometers.

In view of the abovesaid undisputed fact situation obtaining in the present case, this Court feels no hesitation to conclude that the divorce petition filed by the respondent-husband deserves to be transferred from Jalandhar to Ferozepur. It is so said because financial status of the wife, her responsibility for bringing up the children and distance between two places, besides the convenience of the wife, are some of the relevant considerations for deciding the transfer applications, like the present one.

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

The solitary argument raised by learned counsel for the respondent-husband that respondent-husband is suffering from some chronic ailments, is to be noted to be rejected. It is so said because the documents including medical certificates shown to the Court by learned counsel for the respondent are of February, 2016 and March, 2016. Even if the said documents are taken to be true on their face value, the same cannot be said to be relevant for the purpose of deciding the instant transfer application.

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 transfer application deserves to be accepted and the same is hereby allowed. Divorce petition filed by the respondent-husband bearing DMC No.1482/2015 dated 16.11.2015 titled as Vaibhav Sharma Samra Vs. Meenu Sharma is ordered to be transferred from Jalandhar to Ferozepur.

Accordingly, learned District Judge, Jalandhar is directed to send the complete record of the abovesaid divorce petition filed by the respondent-husband, to the learned District Judge, Ferozepur at an early date and in any case within a period of one month from the date of receipt of certified copy of this order.

Learned District Judge, Ferozepur 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 abovesaid observations made and directions issued, instant transfer application stands allowed, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
JUDGE

01.04.2016
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