

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

TA No. 770 of 2014

Date of decision: 10.3.2016

Sapna Bhatia

.. Applicant

Vs.

Raman Bhatia

... Respondent

CORAM: HON'BLE MR.JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. L.S. Lakhanpal, Advocate
for the applicant.

Mr. Amrinder Singh, 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 transfer application under Section 24 read with Section 151 of Code of Civil Procedure, 1908, seeks transfer of a petition under Section 25 of the Guardian and Wards Act (' the Act' for short) from Pathankot to a court of competent jurisdiction at Ambala.

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

Heard learned counsel for the parties.

It is undisputed between the parties that marriage took

place in the year 2009. There is a child out of the wedlock, who is residing with the respondent-husband. Since the child was of tender age of about five years, applicant-wife filed a petition seeking custody of the minor child. Proceedings arising out of FIR No. 408 dated 5.10.2011 under Sections 323/342/406/498-A/506/120-B IPC, registered at Police Station Ambala City, were going on at Ambala. Proceedings under Section 125 Cr.P.C., at the instance of the applicant-wife, are also going on at Ambala. The material fact that the respondent-husband is not paying any amount on account of maintenance to the applicant-wife and he has been declared proclaimed offender in the abovesaid FIR, has also gone undisputed on record.

In view of the what has been discussed hereinabove, this Court is of the considered opinion that instant transfer application deserves to be allowed and the petition under Section 25 of the Act pending before Ms. Ramesh Kumari, learned Additional and District Judge, Pathankot, deserves to be transferred to a court of competent jurisdiction at Ambala. It is so said because neither the respondent is paying any maintenance amount to the wife, nor she is having any regular source of income. In such a situation, it would not only be inconvenient but very difficult for the applicant to pursue the litigation at Pathankot because she is residing with her parents at Ambala.

Keeping in view the abovesaid peculiar facts and circumstances of the case, 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. The

learned District Judge, Pathankot, is directed to send the complete record of the petition under Section 25 of the Act pending before the Court of Ms. Ramesh Kumari, learned Additional District and Session Judge, Pathankot, to the learned District Judge, Ambala, 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. The learned District Judge, Ambala, is also directed either to decide the case himself or assign it to a 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**

10.3.2016
AK Sharma