

T.A.No. 422 of 2017
Date of Decision: 5.9.2017

Nisha

---Applicant

versus

Satinder Kumar

---Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. S.K.Hooda, Advocate
for the applicant

Rekha Mittal, J.

The applicant prays for transfer of HMA case No. 538 of 2016 titled “Satinder Kumar vs. Nisha” filed under Section 13 of the Hindu Marriage Act, 1955 (in short “the Act”) by the respondent-husband from the Court of District Judge, Family Court, Rohtak to a Court of competent jurisdiction at Hisar.

Counsel for the applicant has submitted that besides physical distance of about 90 Kms between Rohtak and Hisar, the applicant has lodged FIR No. 291 dated 30.11.2016 at Police Station, Uklana, District Hisar (Annexure P-3) for offence under Sections 323, 34, 406, 498-A and 506 of the Indian Penal Code (in short “IPC”). It is argued that keeping in view the allegations raised in the FIR, appearance of the applicant in the proceedings pending at Rohtak may cause adverse effect on her health both mentally as well as physically.

Counsel for the respondent, on the contrary, would urge that distance between the two places is approximately 60-70 Kms. The FIR has

been registered by the applicant after receipt of summons in the divorce petition filed by the husband. There is no medical evidence to support the allegations raised in the FIR constituting offence under Section 323 IPC.

Counsel for the applicant has not made any submissions to counter the submissions made by counsel for the respondent.

The applicant is a resident of village Sahu Tehsil and District Hisar. On a query by the Court, counsel for the applicant has fairly informed that distance between Sahu and Rohtak is less than distance between Sahu and Hisar. The FIR has been got registered by the applicant subsequent to receipt of notice of the petition under Section 13 of the Act.

In view of the above, it would be appropriate that the petition is allowed to proceed at the place where the same was filed. However, the applicant may file an appropriate application before the Court for issuance of directions in the light of judgment of Hon'ble the Supreme Court of India in **Krishna Veni Nagam vs. Harish Nagam 2017(2) RCR(Civil) 358**. In case such an application is filed by the applicant, the same shall be disposed of by the court below before proceeding further with the trial.

With the aforesaid observations, the application stands disposed of.

(Rekha Mittal)
Judge

5.9.2017

PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No