

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

TA No. 436 of 2017(O&M)
Date of decision: 12.12.2017

Harleen Kaur

....Applicant

VERSUS

Col. Navneet Singh

.....Respondent

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. G.S. Sullar, Advocate for the applicant.

Mr. S.C. Nagpal, Advocate for the respondent.

REKHA MITTAL, J.(Oral)

Prayer in this petition filed under Section 24 of the Code of Civil Procedure, 1908 (in short 'CPC') is for transfer of divorce petition titled **Col. Navreet Singh Vs. Ms. Harleen Kaur** from the Court of Additional District Judge, Panchkula to a court of competent jurisdiction at Gurugram.

Counsel for the applicant has submitted that the applicant is working in a multi-national company at Gurugram and gets only two days leave per month. Father of the applicant is not keeping good health and cannot walk whereas her mother is an old aged lady incapable to take care of her father alone. The applicant has responsibility to look after 8 years old son, born out of the wedlock. It is further argued that the respondent gets 60 days leave in a year and has a house in Delhi, therefore, transfer of the petition from Panchukula to Gurugram may not be of any inconvenience for the respondent-husband.

Counsel representing the respondent, on the other hand, would urge that another son aged about 16 years born out of the wedlock of the

parties is residing with the respondent and he is a student of Vivek High School, Sector 38 Chandigarh. The respondent is a Cardiac Surgeon working in Command Hospital at Chandimandir. He is one of the 18 cardiac surgeons throughout the galaxy of all the three wings of the Armed Forces. He has to look after various patients suffering from heart ailments and is dealing with cases of angiography, angioplasty, fixing of pace-makers, repair of holes in the heart and remains busy all the seven days in a week. According to counsel, Major General Commandant CH (WC), Chandimandir issued a letter dated 10.07.2017 that substantiates plea of the respondent that it would be against the interest of persons suffering from heart ailments in case the respondent is compelled to travel from Chandimandir to Gurugram for pursuing the divorce petition.

Counsel for the applicant, in reply, would state that letter (Annexure R-1) does not indicate that the respondent cannot leave the station as he cannot be relieved on short notice or notice of 24 hours whereas in Court cases, dates are fixed much in advance, therefore, the respondent can accordingly plan his leave/station leave.

I have heard counsel for the parties, perused the paper-book and the documents on record.

The warring spouses appear to be highly educated but unfortunately they could not adjust in their matrimony leading to marital discord. It is disheartening that due to disharmony between them, two sons born out of the wedlock have also been separated as one is living with the mother and other with the father. However, both the children are minor. The respondent is a cardiologist posted in Command Hospital Western Command Chandimandir from April 5, 2015. Perusal of the letter dated 10.07.2017 (Annexure R-1) makes it evident that there are two

cardiologists posted in the Command Hospital and exigencies of the military service entail frequent movement of either of them on temporary duty to other military stations. Counsel for the applicant is right in his submission that as per para 7 of the letter, it is not possible to relieve the officer on short notice even of 24 hours but the Court proceedings are fixed well in advance. Nevertheless, taking into consideration nature of duties performed by the respondent-husband, it is expedient in the interest of justice that the petition is allowed to proceed at the place where the same is filed. However, the applicant may file an application for issuance of appropriate directions in the light of judgment of Hon'ble the Supreme Court **Krishna Veni Nagam Vs. Harish Nagam, 2017 (2) RCR (Civil) 358.** In case such an application is filed, the same shall be disposed of by the Court below in the light of aforesaid judgment and judgment of Hon'ble the Supreme Court in **Transfer Petition (Civil) No. 1278 of 2016 (Santhini vs. Vijaya Venketash) decided on 9.10.2017** before proceeding further with the matter.

With the aforesaid observations, the petition stands disposed of. It is clarified that in case the respondent is transferred from Chandimandir to some other place, the applicant may file fresh application in the changed scenario.

DECEMBER 12, 2017

'D. Gulati'

(REKHA MITTAL)

JUDGE

Whether speaking/reasoned :

yes/no

Whether reportable :

yes/no