

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

CRM-M No. 10242 of 2017

DATE OF DECISION :- August 28, 2018

Rajdeep Kaur

...Petitioner

Versus

Surinder Pal Kaur and another

...Respondents

CORAM: HON'BLE MR. JUSTICE H.S. MADAN

Present:- Mr. Avtar Singh Khinda, Advocate for the petitioner.

Ms. Sukhpreet Kaur, Advocate for the respondents.

This petition under Section 407 Cr.P.C. for transferring of complaint No. 14 of 2016 titled 'Surender Pal Kaur and another versus Rajdeep Kaur and others' pending in the Court of Sub Divisional Judicial Magistrate, Sultanpur Lodhi, District Kapurthala to the Court of competent jurisdiction at Ludhiana has been filed by Rajdeep Kaur, a respondent in the complaint.

Inter alia in the petition it is contended that petitioner Rajdeep Kaur was married with Sarmukh Singh son of Jagtar Singh resident of Kapoor Colony, in front of Rail Coach Factory, Kapurthala on 15.12.2012 at Ludhiana. After the marriage the spouses started residing together at Kapurthala and were blessed with a son namely Kabir Singh on 1.4.2014. Subsequently matrimonial discord took place between the spouses and in the month of July, 2014 petitioner was turned out from matrimonial home

along with her minor son. Though she was rehabilitated in the matrimonial home but she was again shown the door on 8.11.2014 after given beatings.

According to the petitioner she has filed a petition under Section 125 Cr.P.C. for maintenance before Chief Judicial Magistrate, Ludhiana which is pending. She has lodged an F.I.R. No. 37 dated 15.3.2016 under Sections 406, 498-A IPC at Women Police Station, Ludhiana; that on 19.10.2016, respondents had filed complaint under Section 12 of the Protection of Women From Domestic Violence Act, 2005 against the petitioner and his family members which is pending in the Court of Sub Divisional Judicial Magistrate, Sultanpur Lodhi.

Son of respondents namely Sarmukh Singh, who is husband of petitioner had filed a petition under Section 9 of the Hindu Marriage Act before Civil Judge, Senior Division, Kapurthala as well as petition under Section 25 of the Guardians and Wards Act in the Court at Kapurthala. On a petition having been filed by the present petitioner the divorce petition filed by Sarmukh Singh against the present petitioner has been transferred from the Court of Additional District Judge-III, Kapurthala to a Court of competent jurisdiction at Ludhiana vide order dated 5.9.2017 passed by a Coordinate Bench of this Court in T.A. No. 346 of 2017 (O&M). According to the petitioner, it is difficult for her to travel distance of 130 kms away from Ludhiana more particularly when she is to look after a minor child, therefore, the present petition be accepted.

The petition is being opposed on behalf of respondents contending that no reason for transfer of the petition is made out more particularly when the respondents in this petition, who are petitioners in the

case in question are of old age suffering from various ailments and it would be difficult for them to attend hearings in Court at Ludhiana, therefore, the present petition be dismissed.

After hearing counsel for the parties and going through the record, I find that the petition deserves to be allowed keeping in view the fact that petitioner is a deserted wife who is to look after her minor child and for meeting her needs and those of the child. She had to file a petition for maintenance against her husband. On a similar petition filed by her, a coordinate Bench of this Court had ordered transfer of divorce petition pending in the Court at Kapurthala to the Court of competent jurisdiction at Ludhiana. The present respondents need not appear in the proceedings under Section 12 of the Protection of Women from Domestic Violence Act, 2005 on each and every date of hearing and they can be represented through counsel.

Under the circumstances, the petition is allowed and petition in question is ordered to be transferred from Sub Divisional Magistrate, Sultanpur Lodhi, District Kapurthala to the Court of Chief Judicial Magistrate, Ludhiana who may retain the case on his file or transfer to some other Court of competent jurisdiction at Ludhiana. The parties through counsel are directed to appear in the transferee Court.

(H.S. MADAAN)
JUDGE

August 28, 2018
p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No