

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

102

TA-126-2018

Date of Decision : 15.11.2018

Smt. Akvinder Kaur

..... Applicant

Versus

Sh. Gurpreet Singh

..... Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present :- Mr. Sandeep Verma, Advocate
for the Applicant.

Mr. Shoaib Khan, Advocate
for the respondent.

AJAY TEWARI, J. (ORAL)

This transfer application has been filed to transfer petition filed by the respondent-husband against the applicant under Section 13(1) (1-a) of the Hindu Marriage Act, 1955 from the District Court, Panchkula to a competent Court at Ambala.

The ground taken is that the applicant is now residing with her parents with a 7 years old son in a village about 12 kms from Ambala where a petition under the Domestic Violence Act is pending against the respondent-husband. It is prayed that on the comparative hardship tests it would be appropriate if the divorce petition filed by the respondent at Panchkula be transferred to Ambala since Panchkula is about 45 kms away from her village.

Counsel for the respondent has argued that in this case the respondent is willing to bear the travel expenses which the applicant may have to incur for those hearings when her presence is required before the trial court. He has relied upon the judgment of the Supreme Court in the

matter of *Preeti Sharma vs. Manjit Sharma*, 2005(11) SCC 535 wherein it has been held as follows:-

“In our view, no substantial ground for transfer has been made out. If the Petitioner wishes that all cases be tried at one place, she may apply for the same and we will transfer the cases pending in Delhi to Muzaffar Nagar. Merely because the Petitioner is a lady does not mean that she cannot travel and stay. We, therefore, direct that the Respondent shall pay to the Respondent and a companion travel and stay expenses on every occasion that the Petitioner is required to go to Muzaffar Nagar. The Court at Muzaffar Nagar shall ensure that such payment is made to the Petitioner on every occasion.”

Counsel for the respondent has further relied upon the judgment of the Supreme Court in the matter of *Anindita Das vs. Srijit Das*, 2006 (9) SCC 197, wherein it has been held as follows:-

“4. This Court is now required to consider each petition on its merit. In this case the ground taken by the wife is that she has a small child and that there is nobody to keep her child. The child, in this case, is six years old and there are grand parents available to look after the child. The Respondent is willing to pay all expenses for travel and stay for the Petitioner and her companion for every visit when the Petitioner is required to attend the Court at Delhi.

5. Thus, the ground that the Petitioner has no source of income is adequately met. Except for stating that her health is not good, no particulars are given. On the ground that she is not able to come to Delhi to attend the Court on a particular date, she can always apply for exemption and her application will undoubtedly be considered on its merit. Hence, no ground for transfer has been made out.”

In my opinion, the respondent can not determine when and how often the applicant wants to attend the hearing and it is directed that he would be liable to pay Rs.600/- for every visit which the applicant may make to attend the hearing. Consequently, the applicant is directed to deposit a sum of Rs.6000/- with the trial court. This would take care of 10 visits which the applicant may have to make and after those visits the respondent would similarly deposit the same amount again and would undertake to do so till the conclusion of the hearing.

With this clarification, the transfer application is dismissed.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

November 15, 2018
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(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No