

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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TA No.283 of 2018 (O&M)
Date of Decision:- 23.08.2018

Mamta Rani @ Raman Deniwal

.....Petitioner

V/S

Jatinder Kumar

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present:- Mr.Achin Gupta, Advocate
for the petitioner

Mr.Dinesh Trehan, Advocate
for the respondent.

HARINDER SINGH SIDHU J.

This petition under Section 24 of the Code of Civil Procedure has been filed by the petitioner for transfer of the case filed by the respondent-her husband titled as “Jatinder Kumar Vs. Mamta Rani @ Raman Deniwal” under Section 13 (1) of the Hindu Marriage Act, 1955, from the court of Additional Principal Judge, Family Court, Faridabad to Court of competent jurisdiction at Faridkot.

The marriage between the petitioner and respondent was solemnized on 23.11.2011 at Village Mallan Wala Khas, District Ferozepur. They have two children namely, Ketan and Aksh, who are now aged about 6 and 3 years respectively. It is stated that the older son Ketan is living with the respondent whereas younger son, Aksh is living with the petitioner. It is the case of the petitioner that she was turned out of her matrimonial home in the month of January, 2018. Since then, she is living

with her parents along with her minor child at Kotkapura, District Faridkot. The petitioner is unemployed and is wholly dependent upon her parents. The petitioner has filed petition under Section 125 Cr.P.C. which is pending before the Court at Faridkot. The respondent has put in appearance in that case. It is stated that Faridabad where the respondent instituted the petition for divorce is at a distance of about 420 kms from the place of residence of the petitioner. Under these circumstances, it is very difficult for the petitioner to attend the court proceedings at Faridabad. Hence, the prayer for transfer.

Learned counsel for the respondent on the other hand has urged that there is no justification for transfer of the petition. He states that the respondent is serving in the Army and is presently posted at Delhi. He states that it would be very difficult for him to attend the court proceedings at Faridkot as the leave application for one or two days is usually not sanctioned by the Army. He further states that the witnesses in the divorce petition are residents of New Delhi and it would be difficult for them to appear before the court at Faridkot.

He has referred to the judgment and order of Hon'ble the Supreme Court in case *Krishna Veni Nagam* Vs. *Harish Nagam* (Transfer Petition (Civil) No.1912 of 2014).

In this judgment the Supreme Court issued certain directions which may provide alternative to seeking transfer of proceedings on account of inability of a party to contest proceedings at a place away from their ordinary place of residence. The relevant observations of the Court are:

“17. We are thus of the view that it is necessary to issue certain directions which may provide alternative to seeking transfer of proceedings on account of inability of a party to contest

proceedings at a place away from their ordinary residence on the ground that if proceedings are not transferred it will result in denial justice.

18. We, therefore, direct that in matrimonial or custody matters or in proceedings between parties to a marriage or arising out of disputes between parties to a marriage, wherever the defendants/respondents are located outside the jurisdiction of the court, the court where proceedings are instituted, may examine whether it is in the interest of justice to incorporate any safeguards for ensuring that summoning of defendant/respondent does not result in denial of justice. Order incorporating such safeguards may be sent along with the summons. The safeguards can be :-
- i) Availability of video conferencing facility.
 - ii) Availability of legal aid service
 - iii) Deposit of cost for travel, lodging and boarding in terms of Order XXV CPC.
 - iv) E-mail address/phone number, if any, at which litigant from out station may communicate.”

In this judgment it has been directed that in order to obviate the difficulty to the parties, the court may examine whether it is in the interest of justice to incorporate any safeguards for ensuring that summoning of defendant/respondent does not result in denial of justice and one of the safeguards could be the use of video conferencing facility. The Hon'ble Supreme Court has further observed that in matrimonial cases where one or both the parties make a request for use of video conference, proceedings may be conducted on video conferencing, obviating the need of the party to appear in person.

The facility of Video conferencing may take care of the apprehension of the respondent that the witnesses may not be willing to attend the court proceedings at Faridkot.

In view thereof and considering the facts and circumstance of the case, it may be in the interest of justice that petition under Section 9 of

the Hindu Marriage Act, filed by the respondent be transferred from Faridabad to a Court of competent jurisdiction at Faridkot.

Accordingly, this petition is allowed. The petition under Section 9 of the Hindu Marriage Act, 1955 titled as “Jatinder Kumar Vs. Mamta Rani @ Raman Deniwal” pending in the Court of Additional Principal Judge, family Court, Faridabad is withdrawn from that court and transferred to Faridkot. The learned District Judge, Faridkot may assign it to a competent court at Faridkot.

On a request being made, the transferee court may consider to conduct the proceedings or record evidence of the respondent and such other witnesses of the parties as are unable to appear in Court by way of video conferencing.

(Harinder Singh Sidhu)
Judge

23.08.2018

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Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No