

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

TA No. 491 of 2018(O&M)

Date of decision:27.09.2018

Suman

.. Petitioner

vs.

Sat Narain

.. Respondent

Coram: Hon'ble Mr. Justice Harinder Singh Sidhu

Present:- Mr. Navmohit Singh, Advocate
for the petitioner.

Mr. Lajpat Sharma, Advocate
for the respondent.

Harinder Singh Sidhu, J.

The petitioner-wife has filed the present petition under Section 24 of the Code of Civil Procedure for transfer of case under Section 13(1) (ia) (ib) of the Hindu Marriage Act,1955 titled as 'Sat Narain vs. Suman', filed by the respondent, which is pending in the Court of learned District Judge-Family Court, Bhiwani to a Court of competent jurisdiction at Kaithal.

The marriage between the petitioner and the respondent was solemnized on 25.06.2013. One female child Akshu was born to them, who is presently about 4 years old.

The case of the petitioner is that from the very beginning, the petitioner was repeatedly harassed and humiliated by the respondent and ultimately she was thrown out of her matrimonial home in the month of October 2015. The respondent has now filed a petition under Section 13 of the Hindu Marriage Act, 1955 at Bhiwani.

It appears that earlier a petition under Section 13-B of the Hindu Marriage Act was filed. However, at the first motion, the petitioner made a statement but on the second motion she refused to give statement for non-payment of alimony, because of which the said petition was dismissed. Thereafter the respondent filed a petition under Section 13 of the Hindu Marriage Act, which was dismissed for non-prosecution and non-payment of maintenance vide order dated 25.4.2017.

It is stated that both the earlier petitions were filed at Kaithal but now the 3rd petition has been filed by the respondent at Bhiwani. The respondent is not residing at Bhiwani and the petition is filed there only with a view to harass the petitioner. The petitioner has also filed two petitions, one under Section 125 of the Code of Criminal Procedure and another under Section 24 of the Hindu Marriage Act, which are pending at Kaithal. The petitioner has no independent means and is wholly dependent upon her parents. It is very difficult for the petitioner to attend the Court proceedings at Bhiwani, which is at a distance of about 135 KMs from Kaithal.

Learned counsel for the respondent, on the other hand, contends that the conduct of the petitioner is not good. She had received an amount of Rs.2,50,000/- in pursuance of the compromise whereupon a petition under Section 13-B of the Hindu Marriage Act was filed and the petitioner got her statement recorded at the first motion. However, the petitioner refused to record her statement at the second motion and also did not return the said amount to the respondent. He states that on one occasion, a complaint was lodged by the petitioner against the respondent at Kalayat, District Kaithal where the respondent and his family members were

called to the police station. It is alleged that even in the police station in the presence of Head Constable Shamsheer Singh, brother of the petitioner assaulted and abused the respondent whereupon a Calendera under Section 107/151 Cr.P.C. was prepared. He accordingly contends that the case may be transferred to District Jind, which is a mid way between Kaithal to Bhiwani, having equal distance of 60 KMs.

Considering the facts and circumstances of the case, the contention of learned counsel for the respondent is accepted.

Accordingly, the transfer application is disposed of with a direction that the petition under Section 13(1) (ia) (ib) of the Hindu Marriage Act, 1955 titled as 'Sat Narain vs. Suman', filed by the respondent, which is pending in the Court of learned District Judge-Family Court, Bhiwani is withdrawn from the said Court and transferred to Jind. The District Judge, Jind may assign it to a Court of competent jurisdiction.

27.09.2018
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(Harinder Singh Sidhu)
Judge

Whether speaking/reasoned
Whether Reportable:

Yes
Yes/No