

TA-717-2018 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

TA-717-2018 (O&M)
Date of decision : 30.08.2018

Shivali

... Petitioner

Versus

Pankaj

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Dhruv Gupta, Advocate
for the petitioner.

AMIT RAWAL, J. (ORAL)

The present petition has been filed under Section 24 of the Code of Civil Procedure for transfer of the petition bearing HMA No.721 of 2018 titled as “Pankaj V/s Shivali” (Annexure P-1) filed under Section 9 of the Hindu Marriage Act, 1955 (in short '1955 Act') and all subsequent proceedings, arising thereof, stated to be pending in the Family Court at Gurugram and listed for 10.09.2018 for appearance of the petitioner-wife.

Learned counsel for the petitioner contended that the petitioner is aged 29 years and has 10 months' old child. Though the petition under Section 125 of Cr.P.C. has been filed in Ambala on 13.08.2018 i.e. post filing of the petition under Section 9 of the 1955 Act at Gurugram. It is very inconvenient with a minor child to travel to Gurugram.

Learned counsel for the petitioner relies upon the judgment passed by this Court in TA No.945 of 2015 titled as “Sushma and others V/s Kapil @ Sahil Bansal” decided on 16.03.2016.

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I have heard learned counsel for the petitioner, appraised the paper book and of the view that there is no merit and force in the submissions of Mr. Gupta, for, concededly the marriage between the parties was performed on 09.12.2006 at Ambala, thereafter, the petitioner-wife shifted to matrimonial home at Gurugram. The child was born out of the said wedlock on 17.10.2017. I cannot remain unmindful of the fact that the wife, during all this period, along with minor child as well as during the pregnancy period, must have travelled to Gurugram to Ambala and vice versa and at that time, there was no inconvenience. However, inconvenience only occurred after matrimonial discord. Such an inconvenience, in my view, cannot be a ground for transfer of the petition.

There is no dispute to the *ratio decidendi* culled out in the aforementioned judgment for the purpose of inconvenience, but the reasoning assigned by me is with regard to the cordial relations between the parties and commutation between matrimonial home and parental home, therefore, it would not apply.

Keeping in view the aforementioned facts, I do not find it a fit case for transfer of the petition.

The transfer application is dismissed.

30.08.2018
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned **Yes**

Whether Reportable **No**