

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

TANo. 4 of 2019 (O&M)

Date of decision : 26.8.2019

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Jyoti Aggarwal

.....Applicant

vs.

Ajay Aggarwal

.....Respondent

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. Ajay Jain, Advocate for the applicant.

Mr. G.S. Bedi, Advocate for the respondent.

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H. S. Madaan, J. (Oral)

Report by Joint Registrar, (Judicial & Co-ord.), seen.

Hon'ble the Chief Justice has already passed orders in that regard. No further action in the matter is required.

Applicant – Jyoti Aggarwal, aged about 27 years, estranged wife of Ajay Aggarwal, presently residing with her parents at Village Balsamand, Tehsil and District Hisar, on account of matrimonial discord between the spouses, has filed the instant application under Section 24 CPC, seeking transfer of petition under Section 25 of the Guardian and Wards Act, 1890 for the custody and guardianship of minor son Yug/Bhavik, filed by her husband, who is respondent in the present application, against her, having title 'Ajay Aggarwal vs.

Jyoti Aggarwal' pending in the Court of Civil Judge (Senior Division), Chandigarh, to a Court of competent jurisdiction at Hisar.

According to the applicant, the marriage solemnized between the parties on 14.7.2013, at Hisar, ran into rough weather, though the couple was blessed with a son, namely, Master Yug/Bhavik on 13.12.2015, who is presently residing with the applicant. The applicant alongwith minor son of the parties had to leave the matrimonial home and start residing with her parents at village Balsamand, Tehsil and District Hisar. The applicant has filed a petition under Protection of Woman from Domestic Violence Act, against the respondent and his mother in the Court at Hisar, where the respondent has appeared and is attending the proceedings. The respondent has filed the petition in question in the Court at Chandigarh. The applicant being a young woman, taking care of the minor son of the parties aged about 3 years, having no source of income, with no adult male member in her parental family being available, to accompany her from Hisar to Chandigarh, it is difficult for her to attend the dates of hearing in Court at Chandigarh, covering a distance of about 250 kms from her parental place, as such the application be accepted.

Notice of the application was given to the respondent, who has appeared through counsel and filed written reply, contesting the application vehemently, praying for its dismissal.

I have heard learned counsel for the parties, besides going through the record.

The Apex Court in various judgments has observed that in

matrimonial disputes between the spouses convenience of wife should be looked into. In that regard a reference can be made to authority **Sumita Singh Versus Kumar Sanjay and another, 2002 AIR(SC) 396** by a Division Bench of Hon'ble Supreme Court.

In **Bhartiben Ravibhai Rav Versus Ravibhai Govindbhai Rav, 2017(3) RCR(Civil) 369**, the Apex Court had allowed application for transfer of the divorce petition to a place where the wife was residing considering various factors including the distance between the place where the wife was residing and the place of sitting of the Court where divorce petition had been instituted and the fact that the wife had filed two cases against her husband in the Court at the place of her residence wherein the respondent had already put in appearance.

In **Apurva Versus Navtej Singh, 2017(2) Law Herald 966** by a Co-ordinate Bench of this Court, it was observed that wherever the Courts are called upon to consider the plea of transfer in matrimonial disputes, the Courts have to take into consideration various factors like economic soundness of either of the parties, the social strata of the spouses to which they belong and behavioural pattern, standard of life antecedents of marriage. Generally it is the wife's convenience, which must be looked at by the Courts while deciding the transfer application.

Keeping in view the contentions in the application and submissions made by learned counsel for the applicant, I find that ends of justice demand that the application be allowed.

Accordingly, the application is accepted. The petition in

question pending in the court of Civil Judge (Senior Division), Chandigarh, is withdrawn from that Court and transferred to the Family Court, Hisar, for disposal in accordance with law. Parties through counsel are directed to appear there on 30.9.2019.

A copy of the order be sent to the Courts concerned, for information and necessary compliance.

26.8.2019
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(H.S. Madaan)
Judge

Whether speaking / reasoned Yes / No

Whether reportable Yes / No