

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

T.A. No. 23 of 2019

DATE OF DECISION :- March 15, 2019

Veenu

...Applicant

Versus

Ashish Sharma

...Respondent

CORAM: HON'BLE MR. JUSTICE H.S. MADAAN

Present:- Mr. Raj Kumar Rathore, Advocate for the applicant.

By way of filing the present application, applicant Veenu, aged about 31 years, estranged wife of Ashish Sharma-respondent presently residing with her parents at Chandigarh, seeks transfer of petition under Section 9 of the Hindu Marriage Act, 1955 filed by her husband Ashish Sharma against her having title 'Ashish Sharma Vs. Veenu' pending in the Court of Additional Civil Judge (Sr. Division), Bathinda to the Court of competent jurisdiction at Chandigarh.

According to the applicant, the marriage between the parties performed on 28.7.2013 at Chandigarh did not work though the couple was blessed with a female child namely Aanaya born on 9.2.2015. According to the applicant, the respondent is a habitual drug addict and he along with his family members treated the applicant with cruelty. Situation was so created

that the applicant along with minor daughter had to leave the matrimonial home and start residing with her parents at Chandigarh. The applicant has filed petition under Section 125 Cr. P.C. for grant of maintenance for herself and on behalf of minor daughter in the Court at Chandigarh where respondent had appeared. The matter was compromised. The applicant along with minor daughter returned to the matrimonial home but there was no change in behaviour of the respondent and applicant along with minor daughter had to leave the matrimonial home again. The respondent has filed the petition in question just to pressurize the applicant. The applicant does not have any source of income. The minor daughter of the parties is admitted in a School at Chandigarh. It is difficult for her to travel from Chandigarh to Bathinda to attend the dates of hearing in the Court there, covering a distance of about 300 kms on one side. Further more she has filed a petition under Section 125 Cr.P.C. against the respondent in the Court at Chandigarh, as such the application be accepted.

Notice of the application was given to the respondent, who as per office report has been duly served but he has not turned up to offer a contest.

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

The Apex Court in various judgments has observed that in matrimonial disputes between the spouses convenience of wife must 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, in which I find merit, in absence of any strong circumstance to the contrary, it would be proper and appropriate if the application is accepted. The same is accordingly allowed. The petition in question is ordered to be withdrawn from the Court of Additional Civil Judge (Sr. Division), Bathinda and transferred to the Court of District Judge, Chandigarh for disposal in accordance with law. Learned District Judge, Chandigarh may retain the petition on his board or assign it to any other Court of competent

jurisdiction.

The parties through are directed to appear in the transferee Court on 26.4.2019. Copies of orders be sent to the Court of Additional Civil Judge (Sr. Division), Bathinda as well as to the Court of District Judge, Chandigarh for information and necessary compliance.

**(H.S. MADAAN)
JUDGE**

March 15, 2019

p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No