

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

TA-08-2019 (O&M)

Date of decision: 19.08.2019

Shivani Dhall

...Applicant

Versus

Robin Dhall

...Respondent

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

Present: Mr. Amit Dhawan, Advocate for the applicant.

Mr. Ankur Bansal, Advocate for the respondent.

H.S. MADAAN, J. (Oral)

Applicant Shivani Dhall, aged about 29 years, estranged wife of respondent Robin Dhall, presently residing with her parents at Jalandhar, on account of matrimonial discord between the spouses, by way of filing the present application, seeks transfer of divorce petition, filed by her husband, the respondent against her having title 'Robin Dhall Vs. Shivani Dhall' pending in the Court of Addl. District Judge, Gurdaspur to the Court of competent jurisdiction at Jalandhar.

According to the applicant, she was married with the respondent on 10.12.2017 at Jalandhar. Thereafter, they started residing together, however, the couple was not blessed with any child. She was harassed and maltreated by the respondent and his family members, since, she could not get their demands of more dowry met from her parents. The respondent is given to bad vices of taking liquor and drugs. He has been indulging in several illegal activities. Circumstances were so created by the

respondent and his family members that she had to leave the matrimonial home and start residing with her parents at Jalandhar. She does not have any source of income and is dependent upon her parents for meeting her financial needs. She has filed a petition under Section 125 Cr.P.C. besides another application under provision of Protection of Women from Domestic Violence Act, 2005 against the respondent in Courts at Jalandhar. The respondent has filed the petition in question against the applicant just to harass her. Under the circumstances, it is difficult for the applicant to travel from her parental place to Gurdaspur to attend the dates of hearing in the Court there, covering a distance of about 100 kms on one side. Therefore, the present application be accepted.

Notice of the application was given to the respondent who put in appearance through counsel and is opposing 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 Ray** Versus **Ravibhai Govindbhai Ray**, 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 Addl. District Judge, Gurdaspur and transferred to Family Court at Jalandhar for disposal in accordance with law.

The parties through counsel are directed to appear in the transferee Court on 20.09.2019. Copies of orders be sent to both the Courts for information and necessary compliance.

19.08.2019

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(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :

Yes No

Whether Reportable :

Yes No