IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

TA-14-2019 (O&M)
Date of decision: 23.07.2019

Malkeet Kaur @ Simranjeet Kaur

...Applicant

Versus

Lakhwinder Singh

...Respondent

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

Present: Mr. Shrey Goel, Advocate for the applicant.

Mr. Surinder Garg, Advocate for the respondent.

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H.S. MADAAN, J. (Oral)

Applicant Malkeet Kaur @ Simranjeet Kaur, aged about 35 years, estranged wife of respondent Lakhwinder Singh, presently residing with her mother at Kaithal, on account of differences between the parties, by way of filing the present application, seeks transfer of divorce petition, filed by her husband, the respondent against her having title 'Lakhwinder Singh Vs. Malkeet Kaur @ Simranjeet Kaur' pending in the Court of District Judge, Sri Muktsar Sahib to the Court of competent jurisdiction at Kaithal.

As per version of the applicant, the marriage between the parties was solemnized on 10.2.2001. Thereafter, they started residing together. The marriage was consummated and the couple was blessed with a son, namely, Master Harmanbir Singh, born on 23.4.2007; that right from the beginning, the attitude of the respondent with the applicant

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was not proper. Due to tense atmosphere created by the respondent in the matrimonial home, the applicant had to walk out of it and start residing with her parents. She is taking care of minor son of the parties. She does not have any source of income; that earlier also, the respondent had filed a petition under Section 9 of the Hindu Marriage Act against the present applicant. The applicant had filed a transfer application No.376-2015 in this Court, however, the matter was compromised and that application was disposed of but with an ulterior motive, in order to harass the applicant, the respondent has filed the petition in question against her. The father of the applicant has already expired and her mother on account of old age, is not in a position to accompany her to Sri Muktsar Sahib to attend the dates of hearing in a Court there. The brothers of the applicant are staying out of the country and there is no male member in the family to accompany her for participating in Court proceedings at Sri Muktsar Sahib. Under the circumstances, it is difficult for her to travel from her parental place to Sri Muktsar Sahib, to attend the dates of hearing in the Court there, covering a distance of about 300 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

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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, 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

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from the Court of District Judge, Sri Muktsar Sahib and transferred to the Court of learned District Judge, Kaithal for disposal in accordance with law. Learned District Judge, Kaithal may retain the petition on his board or assign it to any other Court of competent jurisdiction.

The parties through their counsel are directed to appear in the transferee Court on 26.08.2019. Copies of orders be sent to both the Courts for information and necessary compliance.

23.07.2019 **(H.S. MADAAN)**
sumit.k **JUDGE**

Whether speaking/reasoned : Yes No
Whether Reportable : Yes No

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