

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

TA No. 48 of 2019 (O&M)

Date of decision : 19.3.2019

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Vandana Sharma

.....Applicant

vs.

Amit Kumar

.....Respondent

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

Present: Mr. Gautam Kaile, Advocate for
Mr. Gourav Verma, Advocate for the applicant.

None for the respondent.

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H. S. Madaan, J. (Oral)

By way of moving present application, applicant – Vandana Sharma, aged about 34 years, estranged wife of Amit Kumar, presently residing with her parents at Hisar, on account of matrimonial discord between the spouses, seeks transfer of divorce petition, filed by her husband, who is respondent in the present application, against her, having title 'Amit Kumar vs. Vandana Sharma' pending in the Court of Principal Judge, Family Court, Rohtak, to a Court of competent jurisdiction at Hisar.

According to the applicant, the marriage which was solemnized between the parties on 28.11.2010 at Hisar, did not work. Thereafter, they started residing together, though the couple was blessed with two daughters, namely, Vanshika and Akshita, on 7.9.2011 and 17.11.2017, respectively, on account of cruelty purported by the respondent and his family members upon the applicant. Resultantly, the applicant, alongwith with minor daughter of the parties, had to leave the matrimonial home and start residing with her parents at Hisar. The applicant has submitted a complaint to the police against the cruel treatment given to her by respondent and his family members. A petition under Section 125 Cr.P.C. has also been filed by her against the respondent in the Court at Hisar. The respondent has filed the petition in question against the applicant as a pressure tactic. The applicant being a young woman, taking care of minor daughters of the parties, having no source of income it is difficult for her to travel from Hisar to Rohtak, by covering a distance of 105 kms on one side, to attend the dates of hearing in the Court there. Therefore the application be accepted.

Notice of the application was given to the respondent, who has been duly served, but has not opted to put in appearance and 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 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.

In view of the law laid down, 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 Principal Judge, Family Court,

Rohtak, is withdrawn from that Court and transferred to the Family Court at Hisar, for disposal in accordance with law. Parties through counsel are directed to appear there on 23.4.2019.

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

19.3.2019
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(H.S. Madaan)
Judge

Whether speaking / reasoned	Yes / No
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Whether reportable	Yes / No
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