

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

T.A. No. 59 of 2019

DATE OF DECISION :- May 06, 2019

Ashima Khera

...Applicant

Versus

Mukesh Suneja

...Respondent

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

Present:- Mr. N.K. Manchanda, Advocate for the applicant.

Ms. Divya Bajaj, Advocate for the respondent.

Applicant Ashima Khera, aged about 26 years, wife of Mukesh Suneja-respondent, presently residing with her parents at Rohtak on account of matrimonial discord between the spouses, by way of filing the instant application seeks transfer of petition under Section 13(i) (ia) (ib) of the Hindu Marriage Act filed by her husband Mukesh Suneja against her having title 'Mukesh Suneja Vs. Ashima Khera' pending in the Court of Additional District Judge, Charkhi Dadri to the Court of competent jurisdiction at Rohtak.

According to the applicant, after marriage between the parties on 18.2.2011, they could not live together. The reason for their strained relations was maltreatment and harassment by the respondent and his family members in connection with demand of dowry. The applicant was made to

leave the matrimonial home. As a pressure tactic, the respondent has filed a petition under Section 13 of the Hindu Marriage Act against the present applicant in the Court of learned Additional District Judge, Charkhi Dadri, The applicant being a young woman, having no source of income, looking after minor son of the parties, aged about 5 years having filed a petition under Section 125 Cr.P.C. against the respondent in the Court at Rohtak, it is difficult for her to go from her parental place to Charkhi Dadri to attend the dates of hearing in the Court there.

Notice of the application was given to the respondent, who has put in appearance through counsel. The application is being opposed vehemently praying that no ground is made out to accept the application.

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, 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 District Judge, Charkhi Dadri and transferred to Family Court at Rohtak for disposal in accordance with law.

The parties through their counsel are directed to appear in the transferee Court on 30.5.2019. Copies of orders be sent to the Court of Additional District Judge, Charkhi Dadri as well as to the Family Court at Rohtak for information and necessary compliance.

(H.S. MADAAN)
JUDGE

May 06, 2019
p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No