

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

TA No. 38 of 2019 (O&M)

Date of decision : 19.3.2019

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Harjinder Kaur

.....Applicant

vs.

Jagtar Singh

.....Respondent

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

Present: Mr. Akshay Sandhir, Advocate for the applicant.

None for the respondent.

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H. S. Madaan, J. (Oral)

By way of moving present application, applicant – Harjinder Kaur, aged about 43 years, estranged wife of Jagtar Singh, presently residing at Amritsar, 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 'Jagtar Singh vs. Harjinder Kaur' pending in the Court of District Judge, Ferozepur, to a Court of competent jurisdiction at Amritsar.

According to the applicant, the marriage was solemnized between the parties on 2.12.2000 at Amrtisar. Thereafter, they started

residing together. The couple was blessed with a son, namely, Malkiat Singh. The respondent treated the applicant with cruelty. Resultantly, the applicant had to leave the matrimonial home and start residing with her brother. She had no other place to go, except the house of her brother at Amritsar. The applicant has filed a petition under Section 125 Cr.P.C. against the respondent in the Court of JMIC, Amritsar, where she has been awarded maintenance, but the respondent is not making any payment to her. The application is not having any source of income and is dependent upon her brother. The respondent has filed the petition in question against the applicant as a pressure tactic. The applicant being a young woman, having no source of income it is difficult for her to travel from Amritsar to Ferozepur, by covering a distance of 120 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 as per the office report has refused to accept notice, but has been served through affixation. 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 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 District Judge, Ferozepur, is withdrawn from that Court and transferred to the Family Court at Amritsar, 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
Whether reportable	Yes / No