

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

TA-42-2019 (O&M)

Date of decision: 22.07.2019

Priya

...Applicant

Versus

Pardeep Gautam

...Respondent

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

Present: Mr. Ashwani Bakshi, Advocate for the applicant.

Mr. R.C. Gupta, Advocate for

Mr. Inderjeet Sharma, Advocate for the respondent.

H.S. MADAAN, J. (Oral)

This application for transfer of divorce petition titled 'Pardeep Gautam Vs. Priya' pending in the Court of District Judge, Jhajjar to the Court of competent jurisdiction at Ambala, has been filed by applicant Priya, aged about 29 years, estranged wife of respondent Pardeep Gautam, presently residing with her parents at Ambala, on account of matrimonial differences between the parties.

According to the applicant, the marriage solemnized between the parties on 09.02.2007 did not work on account of demand of dowry raised by the respondent from the applicant. She was harassed and maltreated for that reason. The couple was blessed with three children i.e. two daughters, namely Baby Heena, born on 04.02.2008, Baby Manavi, born on 20.03.2012 and a son, Master Bhavishya, born on 22.08.2014. The applicant was turned out of the matrimonial home after being given

beatings on 28.10.2012. All the efforts to resolve the dispute amicably did not prove to be fruitful. The applicant has got registered an FIR No.258 of 2013, for offences under Sections 406, 498-A, 323, 506 and 34 IPC at Ambala. However, on account of apology tendered by the respondent and his relatives, the matter was compromised on 29.09.2013. The applicant had withdrawn her petition under Section 125 Cr.PC. She had been taken to matrimonial home along with younger daughter and the elder daughter was left with parents of applicant, since, she was studying at Ambala. The applicant was kept nicely for about 02 months till the cancellation of FIR. Thereafter, she was again harassed and maltreated for dowry. There was no change in behaviour of the respondent and his family members even after birth of the son, rather, they tried to kill her on 03.06.2015. However, fortunately, she escaped. She was got released by her parents with great difficulty in the night of 05.6.2015 and brought back to Ambala. Since then, she along her three children is residing with her parents at Ambala. She has filed a petition under Section 125 Cr.P.C. against the respondent, besides another petition under provision of Protection of Women from Domestic Violence Act, 2005 against the respondent. Just to harass and cause inconvenience to the applicant, the respondent has filed the petition in question against her. Under the circumstances, it is difficult for the applicant to travel from her parental place to Jhajjar to attend the dates of hearing in the Court there, covering a distance of about 240 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 District Judge, Jhajjar and transferred to Family Court at Ambala for disposal in accordance with law.

The parties through their counsel are directed to appear in the transferee Court on 23.08.2019. Copies of orders be sent to both the Courts for information and necessary compliance.

To address the concern of respondent with regard to apprehension of physical harm, SP, Ambala is directed to ensure that no physical harm is caused to the respondent or any person accompanying him to Ambala in connection with the dates of hearing in the Court there.

22.07.2019

sumit.k

(H.S. MADAAN)
JUDGE

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