

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

TA-47-2019 (O&M)

Date of decision: 25.09.2019

Reena

...Applicant

Versus

Shri Kavar

...Respondent

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

Present: Mr. Kanwar Yuvraj Singh, Advocate for the applicant.

Mr. Sumit Gupta, Advocate for the respondent.

H.S. MADAAN, J. (Oral)

Applicant Reena, aged about 25 years, estranged wife of respondent Shri Kavar, presently residing with her parents at Manimajra, Chandigarh, on account of matrimonial discord between the spouses, by way of filing the present application, seeks transfer of divorce petition, filed by her husband, the respondent against her having title 'Shri Kavar Vs. Reena' pending before Addl. Principal Judge, Family Court, Sonapat to the Court of competent jurisdiction at Chandigarh.

According to the applicant, the marriage solemnized between the parties on 24.11.2013 did not work, though, the couple was blessed with a son, namely Ansh, born on 24.09.2014. As a matter of fact, real sister of the applicant is married with real brother of respondent. On account of harassment and maltreatment meted out to the applicant at the hands of respondent and his family members in connection with demand of more dowry, the applicant was forced to leave the matrimonial home

and start residing with her parents at Manimajra, Chandigarh. While in matrimonial home, the applicant had suffered from paralysis. Now the respondent has filed the petition in question against the applicant just to harass her. The applicant being a paralytic, having financial constraints, it is difficult for her to travel from her parental place to Sonapat, to attend the dates of hearing in the Court there, covering a distance of about 200 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 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 Addl. Principal Judge, Family Court, Sonapat and transferred to the Court of learned District Judge, Chandigarh for disposal in accordance with law. Learned District Judge, Chandigarh may retain the petition on his board or assign it to any other Court of competent jurisdiction.

The parties through counsel are directed to appear in the transferee Court on 24.10.2019. Copies of orders be sent to both the Courts for information and necessary compliance.

25.09.2019

sumit.k

**(H.S. MADAAN)
JUDGE**

Whether speaking/reasoned :

Yes

No

Whether Reportable :

Yes

No