

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

TA No. 57 of 2019 (O&M)

Date of decision : 24.5.2019

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Anjna Kumari

.....Applicant

vs.

Rakesh Kumar

.....Respondent

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

Present: Mr. G.S. Sirphikhi, Advocate for the applicant.

Mr. Saurav Kanojia, Advocate for the respondent.

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H. S. Madaan, J. (Oral)

Applicant – Anjna Kumari, aged about 24 years, w/o respondent- Rakesh Kumar, presently residing with her mother at Gurdaspur, on account of matrimonial discord between the parties, by way of moving the present application, seeks transfer of divorce petition titled 'Rakesh Kumar vs. Anjna Kumari' pending in the Court of Additional District Judge, Chandigarh, to a Court of competent jurisdiction at Gurdaspur.

As per case of the applicant, marriage between the parties was solemnized on 8.2.2015. Thereafter, they started residing together. The marriage was consummated. However, they were not

blessed with any child. On account of demand of dowry raised by the respondent and his family members, from the applicant, the marriage between the spouses ran into rough weather and the applicant had to leave the matrimonial home and start residing at Gurdaspur, with her poor widowed mother and her brother who is studying. The applicant is presently doing M.Sc. Maths, Ist year from SSM College, Dinanagar. She has submitted a complaint to the SSP, Gurdaspur, for registration of a case against the respondent and his family members on account of demand of dowry from her. As a pressure tactic, the respondent has filed a divorce petition against her in the Court at Chandigarh. She does not have any source of income. It is difficult for her to go from her parental place to Chandigarh to attend the dates of hearing in Court there, by covering a distance of 225 kms on one side. As such the application be accepted.

Notice of the application was given to the respondent, who put in appearance and filed reply, contesting the application praying that it be dismissed.

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.

The matter was referred to Mediation and the respondent was directed to pay a sum of Rs.10,000/- to the applicant in the Mediation Centre, to cover her travelling and misc. expenses. As stated by learned counsel for the applicant, he did not do so. The Mediation has also failed.

Considering the conduct of the respondent in not paying the sum of Rs.10,000/- to the applicant as directed by this Court and 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 Additional District Judge, Chandigarh, is withdrawn from that Court and transferred to the Family Court, Gurdaspur, for disposal in accordance with law. Parties through counsel are directed to appear there on 23.7.2019.

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

24.5.2019
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(H.S. Madaan)
Judge

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