

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

T.A. No. 77 of 2019

DATE OF DECISION :- May 16, 2019

Nitasha Sharma

...Applicant

Versus

Sh. Rajeev Kumar

...Respondent

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

Present:- Mr. R.K. Arya, Advocate for the applicant.

Mr. Vinay Kumar, Advocate for the respondent.

By way of filing the present application, applicant Nitasha Sharma, aged about 36 years, estranged wife of Rajeev Kumar-respondent working as a Staff Nurse at Punjab State AIDS Control Society, Sector 38, Paryas Bhawan, Chandigarh having residence at Chandigarh seeks transfer of divorce petition filed by her husband Rajeev Kumar against her having title 'Rajeev Kumar Vs. Nitasha Sharma' pending in the Court of District Judge, Amritsar to the Court of competent jurisdiction at Chandigarh.

According to the applicant, the marriage between the parties was solemnized on 01.10.2017. Thereafter the spouses started residing together. The marriage was consummated, however, the couple was not blessed with any child. The marriage ran into rough weather. The applicant was diagnosed with a Cancer disease. As per version of the applicant, she was maltreated, harassed and not provided with proper medical treatment by the respondent, as such she had to left the matrimonial home. Her husband

has filed a divorce petition against her on false grounds. Since she is suffering from Cancer of Uterus getting treatment from Max Hospital, Mohali and she is working and posted at Chandigarh, it is difficult for her to go from Chandigarh to Amritsar to attend the dates of hearing, covering a distance of about 275 kms on one side, therefore, the application be accepted.

Notice of the application was given to the respondent, who appeared and filed written reply vehemently contesting the application contending that no ground was there 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 District Judge, Amritsar and transferred to the Court of 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 their counsel are directed to appear in the transferee Court on 17.7.2019. Copies of orders be sent to the Court of District Judge, Amritsar as well as to the Court of District Judge, Chandigarh for information and necessary compliance.

(H.S. MADAAN)
JUDGE

May 16, 2019
p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No