

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

TA-83-2019 (O&M)

Date of decision: 26.03.2019

Moksha

...Applicant

Versus

Diggaj Monga

...Respondent

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

Present: Mr. Arpandeeep Narula, Advocate for the applicant.

Mr. Harkesh Manuja, Advocate for the respondent.

H.S. MADAAN, J. (Oral)

Certified copies of interim orders placed on file by learned
counsel for the applicant.

By way of moving the present application, applicant Moksha, aged about 27 years, estranged wife of respondent Diggaj Monga, presently residing with her parents at Sirsa, on account of a matrimonial discord with her husband, seeks transfer of divorce petition filed by her husband, the respondent against her having title 'Diggaj Monga Vs. Moksha' pending in the Court of District Judge, Family Court, Hisar to the Court of competent jurisdiction at Sirsa.

As per case of the applicant, the marriage solemnized between the parties on 13.04.2013 ran into rough weather, although, the couple was blessed with a male child, namely Master Kavish, born on 15.07.2015. The respondent had sent the applicant home with her

brother on 06.11.2018 on account of marriage of her cousin brother. Immediately, thereafter, the applicant received summons in the divorce petition filed by the respondent against her. The applicant is residing with her parents ever since. According to the applicant, she does not have any source of income and is dependent upon her parents for getting her needs and those of her minor son residing with her met. She has filed a petition under Section 125 Cr.P.C. as well as one under Section 12 of the Protection of Women from Domestic Violence Act, 2005 against the respondent, which are pending in the Court at Sirsa. She has submitted a complaint to SP, Sirsa for lodging an FIR against the respondent under Sections 406 and 498-A of IPC. It is difficult for her to travel from Sirsa to Hisar, to attend the dates of hearing in the Court there, covering a distance of 100 kms on one side. Therefore, the present application be accepted.

Notice of the application was given to the respondent who has appeared through counsel and the application is being opposed vehemently, submitting that no case for transfer of the divorce petition is made out.

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, Family Court, Hissar and transferred to Family Court at Sirsa for disposal in accordance with law.

The parties through their counsel are directed to appear in the transferee Court on 25.04.2019. Copies of orders be sent to both the Courts for information and necessary compliance.

26.03.2019

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(H.S. MADAAN)
JUDGE

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