

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

TA-72-2019 (O&M)

Date of decision: 23.07.2019

Harpal Kaur

...Applicant

Versus

Iqbal Singh

...Respondent

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

Present: Mr. I.S. Mann, Advocate for the applicant.

Mr. N.K. Manchanda, Advocate for the respondent.

H.S. MADAAN, J. (Oral)

Applicant Harpal Kaur, aged about 28 years, estranged wife of respondent Iqbal Singh, presently residing with her parents at Village Piouri, Tehsil Gidderbaha, District Sri Muktsar Sahib, on account of differences between the parties, by way of filing the present application, seeks transfer of petition under Section 9 of the Hindu Marriage Act, filed by her husband, the respondent against her having title 'Iqbal Singh Vs. Harpal Kaur' pending in the Court of District Judge, Family Court, Moga to the Court of competent jurisdiction at Sri Muktsar Sahib.

As per version of the applicant, the marriage between the parties was solemnized on 05.09.2011. Thereafter, they started residing together. The marriage was consummated and the couple was blessed with a daughter, namely, Baby Jashanpreet Kaur; that on account of differences between the parties, the applicant started residing with her parents. She is taking care of minor daughter of the parties, who is a

special child, suffering from Polio and is unable to walk. She does not have any source of income. The applicant being a young woman, taking care of minor daughter of the parties, it is difficult for her to travel from her parental place to Moga, to attend the dates of hearing in the Court there, covering a distance of about 120 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, Family Court, Moga and transferred to the Court of learned District Judge, Sri Muktsar Sahib for disposal in accordance with law. Learned District Judge, Sri Muktsar Sahib 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 26.08.2019. Copies of orders be sent to both the Courts for information and necessary compliance.

23.07.2019
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(H.S. MADAAN)
JUDGE

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