

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

TA-76-2019

Date of decision:-4.12.2019

Jyoti

...Applicant

Versus

Sumit

...Respondent

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

Present : Mr.Harkaran Singh, Advocate
for the applicant.

Mr.D.K. Tuteja, Advocate
for the respondent.

H.S. MADAAN, J.(ORAL)

By way of filing the present application, the applicant – Smt.Jyoti, aged about 26 years estranged wife of respondent – Sumit presently residing with her parents at village Asondha, District Jhajjar on account of matrimonial discord between the spouses, seeks transfer of petition under Section 9 of the Hindu Marriage, Act filed by her husband the respondent against her having title 'Sumit Versus Jyoti' pending before learned Principal Judge, Family Court, Rohtak to any other Court of competent jurisdiction at Bahadurgarh, District Jhajjar.

According to the applicant, the marriage solemnized between the parties on 25.11.2013 at village Asondha Todran, District

Jhajjar did not work, though the couple was blessed with a son namely Lovedeep Kaushik on 13.6.2015, who is presently aged about 4 ½ years and residing with the applicant; that the applicant has filed complaint case under Sections 498-A IPC etc. and also filed petition under Domestic Violence Act and petition under Section 125 Cr.P.C. seeking maintenance, which are pending in the Court at Bahadurgarh; that the applicant had to leave the matrimonial home on account of harassment and cruelty meted out to her by respondent and his family members; that she had no other place to go except the house of her parents at village Asondha, District Jhajjar; that the applicant does not have any source of income and it is difficult for her to travel from her parental place at Asondha, District Jhajjar to Rohtak covering a distance of about 60 kms. on one side to attend the dates of hearing in the Court there. Therefore, the application be accepted.

Notice of the application was given to respondent, who put in appearance through counsel and filed reply to the application vehemently opposing the request for transfer of the petition praying for dismissal of 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.

Therefore, the application stands allowed and the petition under Section 9 of the Hindu Marriage Act pending in the Court of Principal Judge, Family Court, Rohtak is ordered to be transferred to the Court of Additional Civil Judge(Sr.Divn.), Bahadurgarh. The parties are directed to appear before Additional Civil Judge(Sr.Divn.), Bahadurgarh, on 8.1.2020.

Copy of this order be sent to Principal Judge, Family Court,

District Rohtak as well as Additional Civil Judge(Sr.Divn.),
Bahadurgarh for information and necessary compliance.

4.12.2019
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No