

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

TA-86-2019 (O&M)

Date of decision: 02.09.2019

Bimla Rani

...Applicant

Versus

Sandeep Kumar

...Respondent

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

Present: Mr. Sandeep Jasuja, Advocate for the applicant.

Mr. M.K. Dhot, Advocate for the respondent.

H.S. MADAAN, J. (Oral)

Applicant Bimla Rani, aged about 29 years, estranged wife of respondent Sandeep Kumar, presently residing with her parental family at Fazilka, on account of matrimonial discord between the spouses, 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 'Sandeep Kumar Vs. Bimla Rani' pending in the Court of District Judge, Family Court, Patiala to the Court of competent jurisdiction at Fazilka.

As per version of the applicant, the marriage solemnized between the spouses on 15.04.2014 at Fazilka ran into rough weather, though, the couple was blessed with a male child, namely, Sarthak, born on 05.09.2017. On account of demand raised by the respondent and his family members from the applicant, which she could not get

fulfilled from her parents, the applicant was forced to leave the matrimonial home and start residing with her parents at Fazilka. She does not have any source of income. Her father has expired. She has filed a petition under Section 125 Cr.P.C. and initiated criminal proceedings under Section 498-A IPC against the respondent at Fazilka. The respondent has filed the petition in question against the applicant just to harass her. Under the circumstances, it is difficult for her to travel from her parental place to Patiala, to attend the dates of hearing in the Court there. 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 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, Patiala and transferred to the Court of learned District Judge, Fazilka for disposal in accordance with law. Learned District Judge, Fazilka may retain the petition on his board or assign it to any other Court of competent

jurisdiction.

The parties through counsel are directed to appear in the transferee Court on 04.10.2019. Copies of orders be sent to both the Courts for information and necessary compliance.

02.09.2019

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(H.S. MADAAN)
JUDGE

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