

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

T.A. No. 93 of 2019

DATE OF DECISION :- March 29,2019

Manjit Kaur

...Applicant

Versus

Happy

...Respondent

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

Present:- Mr. Amardeep Singh Gill, Advocate
for the applicant.

H.S.MADAAN, J. :

This is an application for transfer of petition under Section 13 of the Hindu Marriage Act, 1955 (for short, 'the Act') titled 'Happy vs. Manjit Kaur', pending in the Court of District Judge, Bathinda to the court of competent jurisdiction at Jalandhar, filed by applicant-Manjit Kaur, wife of Happy-respondent, aged about 26 years, presently residing with her parents at Jalandhar on account of matrimonial discord between the spouses.

According to the applicant, the marriage performed between the parties on 27.10.2013 ran into rough weather. Though the couple was blessed with a daughter namely Jasmeet Kaur, born on 11.10.2014. On account of maltreatment of the applicant by the respondent and his family members soon after the marriage in connection with demand of dowry, the applicant along with the minor daughter were driven out of the matrimonial home by the respondent and his family members in three wearing clothes.

They had no other place to go except the parents of the applicant at

Jalandhar. The applicant is not having any source of income. She has filed a petition under Section 125 Cr.P.C. against the respondent in the Court of Judicial Magistrate 1st Class, Jalandhar. The respondent has put in appearance there and interim maintenance has been granted to the applicant as well as the minor daughter of the parties.

The applicant has filed a revision petition before the Additional Sessions Judge, Jalandhar, seeking enhancement of interim maintenance. The respondent had put in appearance there also. The interim maintenance has since been enhanced. Since the respondent was not paying interim maintenance, the applicant had filed two execution applications before the Judicial Magistrate 1st Class, Jalandhar. The respondent has appeared in one execution application and paid some amount but a sum of Rs.1,50,000/- is still due from him. The applicant has also filed a petition under Section 12 of the Protection of Women from Domestic Violence Act, against the respondent and his family members in the court of Judicial Magistrate 1st Class, Jalandhar. The respondent has put in appearance in those proceedings. Furthermore, the applicant has filed a complaint under Sections 406/498-A/323/506/34 IPC, against the respondent and other accused, which is pending in the Court of Judicial Magistrate 1st Class, Jalandhar. Though, the accused have been summoned but the respondent is intentionally not appearing there.

The respondent has filed a petition under Section 13 of the Act against the applicant in the court of Additional Civil Judge (Senior Division), Bathinda, with a mala fide intention and ulterior motive.

The applicant, being a poor woman, having no source of

income and living on the mercy of her parents, taking care of minor daughter of the parties, it is difficult for her to travel from Jalandhar to Bathinda, covering a distance of 165 kms on one side so as to attend the dates of hearing in the Court there, therefore, the application be accepted.

According to the applicant, she had approached this Court seeking transfer of petition filed under Section 9 of the Act, pending in the Court of Additional Civil Judge (Senior Division), Bathinda to the court of competent jurisdiction at Jalandhar, which was accepted by this Court but then the petition was dismissed in default, since the respondent had not appeared there.

Notice of the application was given to the respondent, who as per office report has been duly served but he has not turned up to offer a contest.

I have heard learned counsel for the applicant 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 Bathinda and transferred to Family Court at Jalandhar, for disposal in accordance with law.

The parties through their counsel are directed to appear in the transferee Court on 26.4.2019. Copies of orders be sent to the Court of District Judge, Bathinda as well as to the Family Court at Jalandhar for information and necessary compliance.

(H.S. MADAN)
JUDGE

29.03.2019

neenu

Whether speaking/reasoned

Yes/No.

Whether reportable-

Yes/No