

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

T.A. No. 102 of 2019

DATE OF DECISION :- November 26, 2019

Anju Bala

...Applicant

Versus

Sukhdev Raj

...Respondent

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

Present:- Mr. R.K. Arya, Advocate for the applicant.

Mr. Sanjeev Kumar, Advocate
for Mr. Munish Puri, Advocate for the respondent.

Applicant Anju Bala, aged about 24 years, estranged wife of Sukhdev Raj-respondent, presently residing with her parents at Gurdaspur on account of matrimonial discord between the spouses, by way of filing the instant application seeks transfer of petition under Section 9 of the Hindu Marriage Act filed by her husband Sukhdev Raj against her having title 'Sukhdev Raj Vs. Anju Bala' pending in the Court of District Judge, Pathankot to the Court of competent jurisdiction at Gurdaspur.

According to the applicant, the marriage solemnized between the parties on 15.11.2016 ran into rough weather though the couple was blessed with a male child namely Behan, aged about 2 years. On account of harassment by respondent and his family members, she had to leave the matrimonial home and start residing with her parents. The applicant has filed petition under

Section 125 Cr.P.C. for grant of maintenance before Illaqa Magistrate, Gurdaspur. As a counter blast, the respondent has filed the petition in question. The applicant does not have any source of income. It is difficult for her to travel from here parental place to Pathankot covering a distance of about 40 kms on one side so as to attend the dates of hearing in the Court there, therefore, the application be accepted.

Notice of the application was given to the respondent, who has put in appearance through counsel vehemently opposing 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. The same is accordingly allowed. The petition in question is ordered to be withdrawn from the Court of District Judge, Pathankot and transferred to Family Court at Gurdaspur for disposal in accordance with law.

The parties through their counsel are directed to appear in the transferee Court on 19.12.2019. Copies of orders be sent to the Court of District Judge, Pathankot as well as to the Family Court at Gurdaspur for information and necessary compliance.

(H.S. MADAAN)
JUDGE

November 26, 2019

p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No