

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

T.A. No. 103 of 2019

DATE OF DECISION :- August 14, 2019

Rinku Bala

...Applicant

Versus

Umesh Bansal

...Respondent

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

Present:- None for the applicant.

Mr. Umesh Bansal- respondent in person.

By way of filing the present application, applicant Rinku Bala, aged about 30 years, estranged wife of Umesh Bansal-respondent presently residing with her parents near Durga Mandir, Bareta Mandi, Tehsil Budhlada, District Mansa, seeks transfer of petition under Section 13 of the Hindu Marriage Act, 1955 filed by her husband Umesh Bansal against her having title 'Umesh Bansal Vs. Smt. Rinku Bala' pending in the Court of Additional District and Sessions Judge, Fatehabad to the Court of competent jurisdiction at Mansa.

According to the applicant, the marriage between the parties performed on 14.11.2010 ran into rough weather, though the couple was blessed with a daughter namely Heena. The applicant was maltreated and harassed by the respondent and his family members on account of bringing

insufficient dowry and ultimately she along with the minor daughter were turned out of the matrimonial home. Since then both of them are staying with parents of the applicant at Bareta Mandi, Tehsil Budhlada, District Mansa. The respondent is not paying any maintenance to the applicant or to the child. He has not made any effort to bring them back to the matrimonial home. He had filed a petition under Section 9 of the Hindu Marriage Act, 1955 against the present applicant in the Court at Tohana, District Fatehabad. On an application having been filed by the present applicant this Court vide order passed in T.A. No. 699 of 2016 on 8.2.2017 directed transfer of the said petition to the Court of District Judge, Mansa, however, that petition was withdrawn by the respondent and then he filed the divorce petition. The applicant is having no source of income and is residing with her parents, it is difficult for her to travel from her parental place to Fatehabad 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 and is opposing the application vehemently praying for its dismissal.

I have heard the respondent in person 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, 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 Additional District and Sessions Judge, Fatehabad and transferred to the Court of District Judge, Mansa for disposal in accordance with law. Learned District Judge, Mansa may retain the petition on his board or assign it to any other Court of competent jurisdiction.

The parties are directed to appear in the transferee Court on

17.9.2019. Copies of orders be sent to the Court of Additional District and Sessions Judge, Fatehabad as well as to the Court of District Judge, Mansa for information and necessary compliance.

The Senior Superintendent of Police, Mansa directed to ensure that no physical harm is caused to the respondent or to his family members or persons accompanying him when he/they go to Mansa to attend the dates of hearing. A copy of this order be sent to Senior Superintendent of Police, Mansa also.

(H.S. MADAAN)
JUDGE

August 14, 2019
p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No