

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

TA-107-2019 (O&M)

Date of decision: 23.05.2019

Rajwinder Kaur

...Applicant

Versus

Harpreet Singh

...Respondent

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

Present: Mr. Sunil Kumar, Advocate for the applicant.

Mr. R.K. Trikha, Advocate for the respondent.

H.S. MADAAN, J. (Oral)

Applicant Rajwinder Kaur, aged about 38 years, estranged wife of respondent Harpreet Singh, presently residing with her parents at Amritsar, on account of matrimonial discord between the spouses, by way of filing the present application, seeks transfer of divorce petition filed by her husband, the respondent against her having title 'Harpreet Singh Vs. Rajwinder Kaur' pending in the Court of Addl. District Judge, SAS Nagar (Mohali) to the Court of competent jurisdiction at Amritsar.

According to the applicant, the marriage solemnized between the parties on 18.09.2010 ran into rough weather, though, the couple was blessed with a son, namely, Lovepreet Singh @ Armaan, born on 20.07.2011; that on account of demand of dowry by the respondent and his family members from the applicant, she was harassed, maltreated and ultimately, forced to leave the matrimonial home. The applicant had no other place to go except the house of her parents at Amritsar. She has lodged an

FIR No.55 dated 07.07.2015, for offences under Section 406, 498-A etc. IPC against the respondent at Police Station Women, Amritsar. She has filed a petition under Section 125 Cr.P.C. against the respondent in Court at Amritsar. The respondent has filed the divorce petition against her as a pressure tactic. The applicant being a young woman, having no source of income, looking after minor son of the parties, who is school going, it is difficult for her to travel from her parental place to SAS Nagar (Mohali) to attend the dates of hearing in the Court there, covering a distance of about 250 kms on one side. Furthermore, the parents of the applicant are of old age, suffering from various ailments. Therefore, the present application be accepted.

Notice of the application was given to the respondent, who put in appearance through counsel and has filed written reply, contesting the application, submitting that the allegations in the application are wrong and no ground is made out to allow 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 Ray** Versus **Ravibhai Govindbhai Ray**, 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 Addl. District Judge, SAS Nagar (Mohali) and transferred to Family Court at Amritsar for disposal in accordance with law.

The parties through their counsel are directed to appear in the transferee Court on 24.07.2019. Copies of orders be sent to both the Courts for information and necessary compliance.

23.05.2019

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(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :

Yes

No

Whether Reportable :

Yes

No