

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

T.A. No. 122 of 2019

DATE OF DECISION :- May 29, 2019

Pooja

...Applicant

Versus

Rahul Soni

...Respondent

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

Present:- Mr. APS Rehan, Advocate
for Mr. Kartik Gupta, Advocate for the applicant.

Mr. Vivek Kathuria, Advocate for the respondent.

Applicant Pooja, aged about 26 years, estranged wife of Rahul Soni-respondent, presently residing with her parents at Hoshiarpur 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 Rahul Soni against her having title 'Rahul Soni Vs. Pooja' pending in the Court of Civil Judge (Jr. Divn.), Chandigarh to the Court of competent jurisdiction at Hoshiarpur.

According to the applicant, the marriage performed between the parties on 30.4.2015 ran into rough weather though the couple was blessed with a daughter namely Ananya born on 21.6.2016. The applicant had to leave the matrimonial home and start residing with her widowed mother who is aged and suffering from various ailments. The applicant does not

have any source of income. There is no male member in the family to accompany her to Chandigarh to attend the dates of hearing in the Court there. Further more she has got registered an F.I.R. against the respondent and filed a complaint under Protection of Women from Domestic Violence Act, 2005 against him. Both the cases are pending at Hoshiarpur. It is difficult for her to travel from Hoshiarpur to Chandigarh covering a distance of 160 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 his 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 Civil Judge (Jr. Divn.), Chandigarh and transferred to Family Court at Hoshiarpur for disposal in accordance with law.

The parties through their counsel are directed to appear in the transferee Court on 24.7.2019. Copies of orders be sent to the Court of Civil Judge (Jr. Divn.), Chandigarh as well as to the Family Court at Hoshiarpur for information and necessary compliance.

(H.S. MADAAN)
JUDGE

May 29, 2019
p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No