

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

TA-121-2019 (O&M)

Date of decision: 18.07.2019

Suchitra

...Applicant

Versus

Arvind Kumar

...Respondent

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

Present: Mr. J.S. Bhinder, Advocate for the applicant.

Mr. Sanjeev Sharma, Legal Aid Counsel for the respondent.

H.S. MADAAN, J. (Oral)

Applicant Suchitra, aged about 29 years, estranged wife of respondent Arvind Kumar, presently residing with her parents at Patiala, on account of differences between the spouses, by way of filing the present application, seeks transfer of petition under Section 9 of the Hindu Marriage Act, 1955, filed by her husband, the respondent against her having title 'Arvind Kumar Vs. Suchitra' pending in the Court of Addl. Civil Judge (Sr. Divn.), Panchkula to the Court of competent jurisdiction at Patiala.

According to the applicant, the marriage solemnized between the parties on 10.12.2017 did not work on account of demand of dowry by the respondent and his family members from the applicant. The couple was not blessed with any child. On account of harassment of applicant at the hands of respondent and his family members, the applicant was forced to leave the matrimonial home and start residing with her parents at

Patiala; that she does not have any source of income and is dependent upon her parents for meeting her financial needs; that she has lodged an FIR No.10 dated 23.01.2019, for offences under Sections 406 and 498-A IPC with Police Station Women Cell, Patiala against the respondent and his parents. She has also filed a petition under Section 125 Cr.P.C. against the respondent in Court at Patiala. The respondent has filed the petition in question against the applicant just to harass her. Under the circumstances, it is difficult for the applicant to travel from her parental place to Panchkula to attend the dates of hearing in the Court there, covering a distance of about 85 kms on one side. Therefore, the present application be accepted.

Notice of the application was given to the respondent who had put in appearance in the Court in person and had stated that he was not in a position to engage a counsel, therefore, a Legal Aid counsel was provided to him. The Legal Aid Counsel, while opposing the application vehemently, has contended that he has tried his best to contact the respondent, even by writing letter to him as per registered AD post but the respondent has not contacted him to give necessary instructions. However, he has prayed for dismissal of 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. Civil Judge (Sr. Divn.), Panchkula and transferred to Family Court at Patiala for disposal in accordance with law.

The parties through their counsel are directed to appear in the transferee Court on 21.08.2019. Copies of orders be sent to both the Courts for information and necessary compliance.

18.07.2019

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(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No