

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

TA-162-2019 (O&M)

Date of decision: 24.07.2019

Sukhjit Kaur

...Applicant

Versus

Balwinder Singh @ Binder

...Respondent

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

Present: Mr. N.S. Lucky, Advocate for the applicant.

Mr. Rajbir Singh, Advocate for the respondent.

H.S. MADAAN, J. (Oral)

This application for transfer of petition under Section 9 of the Hindu Marriage Act, titled 'Balwinder Singh @ Binder Vs. Sukhjit Kaur' pending in the Court of Civil Judge (Sr. Divn.) Mansa to the Court of competent jurisdiction at Barnala, has been filed by applicant Sukhjit Kaur, aged about 28 years, estranged wife of respondent Balwinder Singh @ Binder, presently residing with her parents at Barnala, on account of differences between the spouses.

According to the applicant, the marriage solemnized between the parties in April 2009 did not work, though, the couple was blessed with two children i.e. a daughter, presently aged about 09 years and a son, aged about 04 years. The applicant was thrown out of the matrimonial home after giving beatings along with minor children of the parties in three wearing clothes on 29.05.2018, since, she could not fulfill the demand of her husband and his family members. The respondent is a drug addict. The

applicant has filed the divorce petition against the respondent in Court at Barnala besides petition under Section 24 of the Hindu Marriage Act for grant of maintenance for herself and her children. The respondent has filed the petition in question against the applicant just to harass her. The applicant being a young woman, having financial constraints, taking care of minor children of the parties, it is difficult for her to travel from her parental place to Mansa to attend the dates of hearing in the Court there, covering a distance of about 50 kms on one side. Therefore, the present application be accepted.

Notice of the application was given to the respondent who put in appearance through counsel and is opposing the application vehemently, praying for its dismissal.

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 Civil Judge (Sr. Divn.) Mansa and transferred to Family Court at Barnala for disposal in accordance with law.

The parties through counsel are directed to appear in the transferee Court on 27.08.2019. Copies of orders be sent to both the Courts for information and necessary compliance.

24.07.2019

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(H.S. MADAAN)
JUDGE

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