

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

TA-149-2019 (O&M)

Date of decision: 09.09.2019

Jaswinder Kaur

...Applicant

Versus

Sucha Singh

...Respondent

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

Present: Mr. Varun Sharma, Advocate for the applicant.

Mr. Kuldip Sanwal, Advocate for the respondent.

H.S. MADAAN, J. (Oral)

CM-17797-CII-2019

This is an application for placing on record Annexures P-4 to P-6 and also seeking exemption from filing certified/true copies thereof. Heard. Allowed subject to all just exceptions.

Main Case

Applicant Jaswinder Kaur, aged about 44 years, estranged wife of respondent Sucha Singh, presently residing with her parents at Village Kurali, Tehsil Kharar, District SAS Nagar (Mohali), on account of matrimonial discord between the spouses, by way of filing the present application, seeks transfer of petition under Section 11 or in alternative, Section 13 of the Hindu Marriage Act, filed by her husband, the respondent against her having title 'Sucha Singh Vs. Jaswinder Kaur' pending in the Court of District Judge, Kapurthala to

the Court of competent jurisdiction at SAS Nagar (Mohali).

According to the applicant, the marriage between the parties was solemnized on 14.06.2004. Thereafter, they started residing together. The marriage was consummated and they were blessed with a son, namely Arman Singh, born on 01.09.2006; that previously, petitioner was a divorcee, whereas, respondent was widower and having two daughters from his earlier wife. It was second marriage for both of them; that as the applicant was suffering from ailment i.e. Fibromyalgia (chronic pain disorder), as such, the respondent started neglecting the applicant and their minor son and started harassing her on one pretext or the other. Resultantly, litigation started between the parties. The matter was compromised but later on under compelling circumstances, the applicant had to go to her parental place while leaving the matrimonial home. Now the respondent has filed the petition in question against the applicant just to harass her. The applicant is a household lady, looking after minor son of the parties, who is school going. She does not have any source of income and is dependent upon her parents for meeting her financial needs and those of minor son of the parties. She is suffering from several ailments including chronic pain disorder, making travelling for her to be very difficult. It is not possible for her to travel from her parental place to Kapurthala, to attend the dates of hearing in the Court there, covering a distance of about 150 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, filed written reply 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 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 District Judge, Kapurthala and transferred to the Court of learned District Judge, SAS Nagar (Mohali) for disposal in accordance with law. Learned District Judge, SAS Nagar (Mohali) may retain the petition on his board or assign it to any other Court of competent jurisdiction.

The parties through counsel are directed to appear in the transferee Court on 17.10.2019. Copies of orders be sent to both the Courts for information and necessary compliance.

09.09.2019

*sumit.k***(H.S. MADAAN)
JUDGE**

Whether speaking/reasoned :

Yes

No

Whether Reportable :

Yes

No