

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

TANo. 171 of 2019 (O&M)

Date of decision : 26.8.2019

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Parminder Kaur

.....Applicant

vs.

Mohabat Singh

.....Respondent

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. Sansar Kundu, Advocate for the applicant.

Respondent in person.

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H. S. Madaan, J. (Oral)

Applicant – Parminder Kaur, estranged wife of Mohabat Singh, presently residing with her parents at Hisar, on account of differences between the spouses, has filed the instant application under Section 24 CPC, seeking transfer of petition under Sections 12 and 13 of the Hindu Marriage Act, 1955, filed by her husband, who is respondent in the present application, against her, having title 'Mohabat Singh vs. Parminder Kaur' pending in the Court of Additional District Judge Chandigarh, to a Court of competent jurisdiction at Hisar.

As per averments of the applicant, the marriage solemnized

between the parties on 14.12.2014, ran into rough weather. The couple was not blessed with any child. She was turned out of the matrimonial home by the respondent in May 2017, asking her to bring cash from her parents after disposal of their agricultural land. The applicant has filed a petition under Section 9 of the Hindu Marriage Act, 1955, against the respondent seeking restitution of conjugal rights, which is pending before Family Court, Hisar. She has also filed a petition under Section 125 Cr.P.C., seeking grant of maintenance from the respondent. The said petition is also pending before the Family Court, Hisar. The applicant has lodged an FIR No. 165 dated 11.7.2018, for offences under Sections 498-A, 406, 323, 506 read with Section 34 IPC, against the respondent at Police Station Agroha, Hisar. The case is being investigated. As a counter blast, the respondent has filed the petition in question against the applicant in Court at Chandigarh, to cause harassment and inconvenience to the applicant. The applicant being a young woman, having no source of income, with old ailing parents to look after and being a student of B.Ed. in a college at Agroha, Hisar, it is difficult for her to travel from her parental place to Chandigarh, to attend the dates of hearing in Court there, covering a distance of 250 kms on one side. Therefore, the application be accepted.

Notice of the application was given to the respondent, who was duly served and has put in appearance. He is contesting the application himself.

I have heard learned counsel for the applicant and respondent in person, 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, I find that ends of justice demand that the application be allowed.

Accordingly, the application is accepted. The petition in question pending in the court of Additional District Judge, Chandigarh, is withdrawn from that Court and transferred to the Family Court, Hisar, for disposal in accordance with law. Parties through counsel are directed to appear there on 30.9.2019.

A copy of the order be sent to the Courts concerned, for information and necessary compliance.

26.8.2019
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(H.S. Madaan)
Judge

Whether speaking / reasoned Yes / No

Whether reportable Yes / No