

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

TA-168-2019 (O&M)
Date of decision: 02.09.2019

Manju

...Applicant

Versus

Deepak

...Respondent

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

Present: Mr. K.L. Saini, Advocate for the applicant.

Mr. R.K. Chaudhary, Advocate for the respondent.

H.S. MADAAN, J. (Oral)

Applicant Manju, aged about 30 years, estranged wife of respondent Deepak, presently residing with her parents at Bhiwani, on account of matrimonial discord between the spouses, by way of filing the present application, seeks transfer of divorce petition, filed by her husband, the respondent against her having title 'Deepak Vs. Manju' pending in the Court of Addl. District Judge, Panipat to the Court of competent jurisdiction at Bhiwani.

As per version of the applicant, the marriage solemnized between the spouses on 05.01.2004 at Bhiwani ran into rough weather, though, the couple was blessed with a son in the year 2005. On account of demand raised by the respondent and his family members from the applicant, which she could not get fulfilled from her parents, the applicant along with minor son of the parties was forced to leave the

matrimonial home and started residing with her parents at Bhiwani. She does not have any source of income. She is to look after minor son of the parties, who is school going. She has filed a petition under Section 125 Cr.P.C. against the respondent in Court at Bhiwani, where, he is putting in appearance. The respondent has filed the petition in question against the applicant just to harass her. It is difficult for her to travel from her parental place to Panipat, to attend the dates of hearing in the Court there, covering a distance of about 120/130 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 Addl. District Judge, Panipat and transferred to Family Court at Bhiwani for disposal in accordance with law.

The parties through counsel are directed to appear in the transferee Court on 04.10.2019. Copies of orders be sent to both the Courts for information and necessary compliance.

02.09.2019

sumit.k

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

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