

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

TA No. 198 of 2019 (O&M)

Date of decision : 26.8.2019

...

Partibha Kumari

.....Applicant

vs.

Gulshan Kumar

.....Respondent

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

Present: Ms. Harpreet Kaur, Advocate for
Mr. J.S. Maanipur, Advocate for the applicant.

Gulshan Kumar - Respondent in person.

...

H. S. Madaan, J. (Oral)

This application for transfer of divorce petition titled as 'Gulshan Kumar vs. Paritbha', pending in the Court of Principal District Judge, Family Court, Bhiwani, to a court of competent jurisdiction at Hisar, has been filed by applicant – Partibha Kumari, aged about 42 years, presently residing with her parents at Hisar, on account of estranged relations with her husband Gulshan Kumar, respondent.

According to the applicant, the marriage solemnized between the spouses on 15.2.2013 at Bhiwani did not work. The couple was

not blessed with any child. The circumstances were so created by the respondent that the applicant had to leave the matrimonial home and start residing with her parents at Hisar. 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 Principal District Judge, Family Court, Hisar. She has also filed an application under Section 12 of the Protection of Woman from Domestic Violence Act, 2005, against the respondent, which pending before Illaqa Magistrate, Hisar. As a pressure tactics, in order to cause harassment and inconvenience to the applicant, the respondent has filed a divorce petition against her in the Court at Bhiwani. The applicant being a young woman, having no source of income, it is difficult for her to travel from her parental place to Bhiwani, to attend the dates of hearing in Court there, covering a distance of about 72 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 and filed reply opposing the application vehemently praying for its dismissal.

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 Principal District Judge, Family Court, Bhiwani, is withdrawn from that Court and transferred to the Family Court, Hisar, for disposal in accordance with law. Parties

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
chugh

(H.S. Madaan)
Judge

Whether speaking / reasoned	Yes / No
Whether reportable	Yes / No