

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

T.A. No. 272 of 2019 (O&M)

DATE OF DECISION :- November 06, 2019

Gayatri

...Applicant

Versus

Harish Mishra

...Respondent

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

Present:- Mr. Akashdeep Singh, Advocate for the applicant.

Mr. Balkar Singh, Advocate for the respondent.

C.M. No. 19169-CII of 2019

This is an application for placing on record the reply on behalf of respondent.

Heard.

Allowed.

T.A. No. 272 of 2019

Applicant Gayatri, aged about 31 years, wife of Harish Mishra-respondent, presently residing with her parents at Sonapat, on account of matrimonial discord between the spouses, by way of filing the instant application seeks transfer of petition under Sections 13(i) (ia) (1) (1B) of the Hindu Marriage Act filed by her husband Harish Mishra against her having title 'Harish Mishra Vs. Gayatri' pending in the Court of Additional District Judge, Family Court, Charkhi Dadri to the Court of competent jurisdiction at Sonapat.

As per version of the applicant, the marriage solemnized between the parties on 02.12.2014 at Sonapat did not have smooth sailing. The couple was not

blessed with any child. Due to differences between the parties, the applicant had left the matrimonial home and started to live at her parental home. The applicant has filed a petition under the Protection of Women from the Domestic Violence Act, 2005 and another petition under Section 125 Cr.P.C. against the respondent in the Court of competent jurisdiction at Sonapat. She has also made a complaint to Women Cell against respondent and his family members. As a counter blast, the respondent has filed divorce petition in the Court at Charkhi Dadri. It is difficult for the applicant to travel from her parental place to Charkhi Dadri to attend the dates of hearing there covering a distance of 120 kms. on one side, therefore, the application is accepted.

Notice of the application was given to the respondent who has put in appearance through his counsel by filing written statement vehemently opposing the application.

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 Additional District Judge, Family Court, Charkhi Dadri and transferred to Family Court at Sonapat for disposal in accordance with law.

The parties through their counsel are directed to appear in the transferee Court on 5.12.2019. Copies of orders be sent to the Court of Additional District Judge, Family Court, Charkhi Dadri as well as to the Family Court at Sonapat for information and necessary compliance.

(H.S. MADAAN)
JUDGE

November 06, 2019
p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/Nos