

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

TA No. 242 of 2019 (O&M)

Date of decision : 17.5.2019

...

Kanika

.....Applicant

vs.

Rohit Garg

.....Respondent

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

Present: Mr. G.S. Sandhu, Advocate for the applicant.

Mr. Chander Shekhar, Advocate for the respondent.

...

H. S. Madaan, J. (Oral)

CM -11196-CII-2019

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

Allowed.

Reply be taken on record.

Main case.

According to applicant – Kanika, aged about 30 years, estranged wife of respondent - Rohit Garg, presently residing with her parents at Kurukshetra, she was married with the respondent on 4.2.2014 at Karnal. Thereafter, the spouses started living together. The marriage was consummated and applicant gave birth to a son, namely, Master Vivaan who was born on 23.1.2015. The applicant was treated with cruelty by the respondent and his family members on

account of demand of dowry. Ultimately she had to leave the matrimonial home and start residing with her parents at Kurukshetra. She has lodged an FIR for offence under Sections 323,406,498-A, 506 IPC at Police Station Thanesar City, District Kurukshetra, against the respondent. She has also filed a petition under Section 125 Cr.P.C. against the respondent in the Court at Kurukshetra. As a pressure tactic the respondent has filed the divorce petition against her in the Court at Karnal. The applicant being a young woman, taking care of minor son of the parties, it is difficult for her to travel from Kurukshetra to Karnal to attend the dates of hearing in the Court there, by covering a distance of 40 kms on one side. Therefore, the applicant by way of filing the present application, has prayed for transfer of divorce petition, filed by her husband, against her, having title 'Rohit Garg vs. Kanika' pending in the Court of District Judge, Family Court, Karnal, to a Court of competent jurisdiction at Kurukshetra.

Notice of the application was given to the respondent, who has put in appearance and has filed written reply, opposing the application vehemently, contending that no ground is made out to allow 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, 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 District Judge (Family Court), Karnal, is withdrawn from that Court and transferred to the Family Court, Kurukshetra, for disposal in accordance with law. Parties through

counsel are directed to appear there on 18.7.2019.

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

17.5.2019
chugh

(H.S. Madaan)
Judge

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