

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

TA-254-2019 (O&M)

Date of decision: 22.10.2019

Monika

...Applicant

Versus

Rajesh Kumar

...Respondent

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

Present: Mr. Nitin Sharma, Advocate for
Mr. Ramesh Sharma, Advocate for the applicant.

Mr. D.S. Adlakha, Advocate for the respondent.

H.S. MADAAN, J. (Oral)

Applicant Monika, aged about 30 years, estranged wife of respondent Rajesh Kumar, presently residing with her parents at Nakodar, District Jalandhar, on account of matrimonial discord between the spouses, by way of filing the present application, seeks transfer of petition under Section 9 of the Hindu Marriage Act, filed by her husband, the respondent against her having title 'Rajesh Kumar Vs. Monika' pending before Addl. Principal Judge, Family Court, Ambala to the Court of competent jurisdiction at Jalandhar.

According to the applicant, the marriage solemnized between the parties on 20.02.2010 did not work, though, the couple was blessed with two daughters, namely, Baby Khushi and Bhumika, born on 10.08.2011 and 29.08.2013 respectively. On account of harassment and maltreatment meted out to the applicant at the hands of respondent and

his family members in connection with demand of more dowry, the applicant along with minor daughters was forced to leave the matrimonial home and start residing with her parents. She does not have any source of income. The respondent has filed the petition in question against the applicant just to harass her. Under the circumstances, it is difficult for her to travel from her parental place to Ambala, to attend the dates of hearing in the Court there, covering a distance of about 180 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. Principal Judge, Family Court, Ambala and transferred to Family Court at Jalandhar for disposal in accordance with law.

The parties through counsel are directed to appear in the transferee Court on 22.11.2019. Copies of orders be sent to both the Courts for information and necessary compliance.

22.10.2019

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

Whether speaking/reasoned :
Whether Reportable :

Yes	No
Yes	No