

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

TA-278-2019 (O&M)
Date of decision: 19.08.2019

Moni @ Monika

...Applicant

Versus

Rajesh

...Respondent

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

Present: Mr. V.D. Sharma, Advocate for the applicant.

Mr. D.R. Punia, Advocate for the respondent.

H.S. MADAAN, J. (Oral)

Applicant Moni @ Monika, aged about 27 years, estranged wife of respondent Rajesh, presently residing with her parents at Jind, 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 'Rajesh Kumar Vs. Moni' pending in the Court of Addl. District Judge, Fatehabad to the Court of competent jurisdiction at Jind.

As per version of the applicant, the marriage solemnized between the parties on 03.03.2014 did not work, though, the couple was blessed with a son, namely Master Roop. The respondent and his family members started harassing and maltreating the applicant, since, she could not get their demands of more dowry conceded from her parents. Ultimately, she was turned out of the matrimonial home in the month of January 2017. She had no other place to go except the house of her

parents at Jind. She has lodged an FIR No.221 dated 23.06.2017 under Sections 498-A etc. IPC against the respondent and his family members at Police Station Sadar, Jind. She and her minor son Roop has also filed a petition under Section 125 Cr.P.C. against the respondent in Court at Jind. The respondent has filed the petition in question against the applicant just to harass her. The applicant does not have any source of income. Under the circumstances, it is difficult for the applicant to travel from her parental place to Fatehabad to attend the dates of hearing in the Court there, covering a distance of about 100 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, Fatehabad and transferred to Family Court at Jind for disposal in accordance with law.

The parties through counsel are directed to appear in the transferee Court on 20.09.2019. Copies of orders be sent to both the Courts for information and necessary compliance.

19.08.2019

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(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :

Yes

No

Whether Reportable :

Yes

No