

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

T.A. No. 292 of 2019

DATE OF DECISION :- November 06, 2019

Sushila Devi

...Applicant

Versus

Raj Kumar

...Respondent

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

Present:- Mr. Manish Saini, Advocate
for Mr. R.K. Saini, Advocate for the applicant.

Mr. Vinay Kumar Rao, Advocate for the respondent.

Applicant Sushila Devi, aged about 36 years, estranged wife of Raj Kumar-respondent, presently residing with her parents at Hisar, on account of matrimonial discord between the spouses, by way of filing the instant application seeks transfer of petition under Section 9 of the Hindu Marriage Act filed by her husband Raj Kumar against her having title Raj Kumar Vs. Sushila Devi' pending in the Court of Additional Civil Judge (Sr. Divn.), Ferozepur Jhirka, District Mewat at Nuh to the Court of competent jurisdiction at Hisar.

According to the applicant, the marriage performed between the parties on 15.4.2000 did not work, though the couple was blessed with two children i.e. son namely Lakshay, aged about 16 years and a daughter namely Honey, aged about 15 years at the time of filing of the application. On account of demand of dowry raised by the respondent and his family members from the applicant which she could not get from her parents she was harassed and maltreated and ultimately thrown out of the matrimonial home. She had no other place to go except house of her parents at Hisar. The applicant is not having any

source of income. She is dependent upon her parents for meeting her financial needs and those of minor daughter living with her. The applicant has filed three cases against the respondent. The respondent has filed petition under Section 9 of the Hindu Marriage Act against the applicant in the Court at Ferozepur Jhirka, District Mewat at Nuh. Under the circumstances, it is difficult for her to travel from her parental place to Ferozepur Jhirka, Mewat at Nuh therefore, the application be accepted.

Notice of the application was given to the respondent, who has appeared through counsel by filing written reply contesting the application praying for its dismissal.

I have heard learned counsel for the parties besides going through the record.

Learned counsel for the respondent states that respondent is willing to meet the travelling expenses of the applicant and respondent is taking care of minor son of the parties, therefore, the application be not accepted. Learned counsel for the applicant reiterated the assertions in the application while praying for acceptance of the application.

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 Civil Judge (Sr. Divn.), Ferozepur Jhirka, District Mewat at Nuh and transferred to Family Court at Hisar 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 Civil Judge (Sr. Divn.), Ferozepur Jhirka, District Mewat at Nuh as well as to the Family Court at Hisar for information and necessary compliance.

(H.S. MADAAN)
JUDGE

November 06, 2019
p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/Nos