

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

TA No. 302 of 2019 (O&M)

Date of decision : 22.10.2019

...

Sonu Sharma

.....Applicant

vs.

Aadil Prabhakar

.....Respondent

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

Present: Mr. Achin Gupta, Advocate for the applicant.

Mr. Munish Verma, Advocate for the respondent.

...

H. S. Madaan, J. (Oral)

By way of filing this application, applicant Sonu Sharma, aged about 26 years, estranged wife of Aadil Prabhakar, presently residing with her parents at Bathinda, on account of marital discord between the parties, seeks transfer of divorce petition, filed by her husband, who is respondent in the present application, against her, having title 'Aadil Prabhakar vs. Sonu Sharma' pending in the Court of Additional District and Sessions Judge, SAS Nagar, to a Court of competent jurisdiction at Mansa.

As per version of the applicant, the marriage solemnized between the parties ran into rough weather on account of harassment

and maltreatment meted out to her by the respondent and his family members on account of demand of more dowry, which she could not get conceded from her parents. Ultimately, she was turned out of the matrimonial home in three wearing clothes in the month of June 2015. She had not other place to go except the house of her parents at Bathinda. She is putting up there ever since. She does not have any source of income and is financially depended upon her parents. She had filed a petition under Section 125 Cr.P.C. against the respondent, before Chief Judicial Magistrate, Bathinda, which was dismissed. She has filed an appeal against the said order and thereafter the said respondent had filed a petition under Section 9 of the Hindu Marriage Act, 1955 for restitution of conjugal rights before Civil Judge (Junior Division), Dera Bassi. Both the parties had filed a transfer petition before this Court and vide consented order dated 21.3.2016 both the petitions were transferred to the Court at Mansa and Rs.2,000/- on every date of hearing was granted to the applicant by this Court. Subsequently, the respondent husband had filed a petition at Mansa regarding the amount paid in petition under Section 125 Cr.P.C. Subsequently, he had filed a divorce petition against the applicant in the Court at SAS Nagar, Mohali. Under the circumstances, it is difficult for the applicant to go from her parental place to SAS Nagar, Mohali to attend the dates of hearing in Court there, covering a distance of 220 kms on one side. Two cases between the parties are already pending at Mansa. Therefore, the application be accepted.

Notice of the application was given to the respondent, who was duly served and had appeared through counsel. The respondent

has filed a written reply, vehemently opposing the application for transfer, 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 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 Additional District Judge, SAS Nagar, is withdrawn from that Court and transferred to the Court of District Judge, Mansa, who may retain the case on his Board or assign it to any other Court of competent jurisdiction for disposal in accordance with law. Parties through counsel are directed to appear there on 22.11.2019.

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

22.10.2019
chugh

(H.S. Madaan)
Judge

Whether speaking / reasoned Yes / No

Whether reportable Yes / No