

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

TA-355-2019 (O&M)

Date of decision: 31.10.2019

Poonam Devi

...Applicant

Versus

Devender Singh

...Respondent

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

Present: Mr. R.A. Sheoran, Advocate for the applicant.

Mr. Sumit Gupta, Advocate for the respondent.

H.S. MADAAN, J. (Oral)

CM-18819-CII-2019

This is an application for placing on record the reply on behalf of the respondent. Heard. Allowed subject to all just exceptions.

Reply be taken on record.

Main Case

Applicant Poonam Devi, aged about 34 years, estranged wife of respondent Devender Singh, presently residing with her parents at Charkhi Dadri, 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 'Devender Singh Vs. Poonam Devi' pending in the Court of District Judge, Jhajjar to the Court of competent jurisdiction at Charkhi Dadri.

According to the applicant, the marriage solemnized between

the parties on 19.03.2009 did not work. 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 two minor daughters was forced to leave the matrimonial home and start residing with her parents. She does not have any source of income and is dependent upon her parents for meeting her financial needs. The applicant has filed three petitions against the respondent in Court at Charkhi Dadri; one under Section 125 Cr.P.C, another under Section 9 of the Hindu Marriage Act and third one under Section 12 of the Protection of Women from Domestic Violence Act. According to the applicant, the respondent had forcibly taken away the minor daughter from the custody of the applicant. He is serving in the Army and the minor children are residing with his parents. The children require care of their mother. 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 Jhajjar, to attend the dates of hearing in the Court there. Therefore, the present application be accepted.

Notice of the application was given to the respondent who put in appearance through counsel, filed written reply 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 District Judge, Jhajjar and transferred to the Court of learned District Judge, Bhiwani for disposal in accordance with law. Learned District Judge, Bhiwani may retain the petition on his board or assign it to any other Court of competent jurisdiction.

The parties through counsel are directed to appear in the transferee Court on 02.12.2019. Copies of orders be sent to both the Courts for information and necessary compliance.

31.10.2019

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

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No