

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

TA-361-2019 (O&M)
Date of decision: 23.07.2019

Sakshi Sharma

...Applicant

Versus

Nikhil Verma

...Respondent

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

Present: Mr. Namit Khurana, Advocate for the applicant.

Ms. Ishma Randhawa, Advocate for the respondent.

H.S. MADAAN, J. (Oral)

Applicant Sakshi Sharma, aged about 31 years, estranged wife of respondent Nikhil Verma, presently residing with her parents at Yamuna Nagar, on account of matrimonial differences between the parties, by way of filing the present application, seeks transfer of divorce petition, filed by her husband, the respondent against her having title 'Nikhil Verma Vs. Sakshi Sharma' pending in the Court of Addl. Principal Judge, Family Court, Faridabad to the Court of competent jurisdiction at Yamuna Nagar at Jagadhri.

According to the applicant, the marriage between the parties was solemnized on 23.04.2017. Thereafter, they started residing together. The marriage was consummated and the couple was blessed with a son, namely, Master Vidit Verma, born on 29.08.2017; that from the very beginning, the respondent treated the applicant with cruelty on account of demand and lust for dowry, which she could not fulfill. As such, she was

turned out of the matrimonial home and start residing with her parents. She has filed a petition under Section 125 Cr.P.C. besides another petition under Section 12 of Protection of Women from Domestic Violence Act, 2005 against the respondent in Courts at Yamuna Nagar at Jagadhri. She has also got registered an FIR No.115 dated 09.03.2018 against the respondent with Police Station City, Yamuna Nagar. Just to harass and cause inconvenience to the applicant, the respondent has filed the petition in question against her. The applicant being a young woman, having financial constraints, it is difficult for the applicant to travel from her parental place to Faridabad to attend the dates of hearing in the Court there, covering a distance of about 250 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, contending that the trial Court has already dealt with the matter and directed the respondent to deposit an initial sum of Rs.2000/- for Sakshi Sharma-respondent there, to cover her traveling and lodging expenses. Therefore, the application should not be accepted.

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.

The contention of learned counsel for the respondent that the trial Court has already dealt with the matter, is not sustainable. The order passed by the trial Court is not binding upon this Court. This Court has to reach an independent decision, whether any ground exists for transfer of the case or not. As such, this order does not help the case of respondent much.

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, Faridabad and transferred to Family Court at Yamuna Nagar at Jagadhri for disposal in accordance with law.

The parties through their counsel are directed to appear in the transferee Court on 26.08.2019. Copies of orders be sent to both the Courts for information and necessary compliance.

23.07.2019

sumit.k

(H.S. MADAAN)
JUDGE

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