

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

T.A. No. 375 of 2019

DATE OF DECISION :- November 01, 2019

Manisha Rani and others

...Applicants

Versus

Dhiraj Kumar Sharma

...Respondent

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

Present:- Mr. Achin Gupta, Advocate for the applicants.

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

This application for transfer of petition under Sections 6, 13 of the Hindu Minority and Guardianship Act, 1956 read with Sections 7, 12, 25 of Guardian and Wards Act, 1890 having title 'Dhiraj Kumar Sharma vs. Manisha Rani and others' has been filed by Manisha Rani, her father Bal Krishan and mother Rani, pending in the Court of Additional Civil Judge (Sr. Divn.), Phagwara to the Court of competent jurisdiction at Faridkot

According to applicant Manisha Rani, the marriage solemnized between applicant No. 1 Manisha Rani and respondent Dhiraj Kumar Sharma did not work though the couple was blessed with a son namely Ranvir Kumar Sharma, presently aged about 3 years. On account of harassment and maltreatment meted out to applicant Manisha Rani at the hands of respondent and his family members, she had to leave the matrimonial home and start residing with her parents at Faridkot along with minor son; that the marriage between the spouses has been dissolved by way of Panchayati divorce on 31.1.2018 and custody of minor son was given to applicant No. 1 but all of a

sudden the respondent filed a petition for custody of such minor son in the Court of Civil Judge (Sr. Divn.), Phagwara. According to the applicant she does not have any source of income and she has to take care of minor son of the parties, therefore, it is difficult for her to travel from Faridkot to Phagwara covering a distance of about 150 kms on one side so as to attend the dates of hearing in the Court there, therefore, the application be accepted.

Notice of the application was given to the respondent, who has put in appearance through counsel and has filed written reply 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 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.), Phagwara and transferred to Family Court at Faridkot for disposal in accordance with law.

The parties through their counsel are directed to appear in the transferee Court on 02.12.2019. Copies of orders be sent to the Court of Additional Civil Judge (Sr. Divn.), Phagwara as well as to the Family Court at Faridkot for information and necessary compliance.

(H.S. MADAAN)
JUDGE

November 01, 2019

p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No