

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

T.A. No. 376 of 2019

DATE OF DECISION :- October 24, 2019

Divya

...Applicant

Versus

Beenu Mehta

...Respondent

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

Present:- Mr. I.P.S. Kohli, Advocate for the applicant.

Mr. Vikram Anand, Advocate for the respondent.

Applicant Divya, aged about 23 years, wife of Beenu Mehta-respondent, presently residing with her parents at Kapurthala on account of matrimonial discord between the spouses, by way of filing the instant application seeks transfer of petition under Section 13 of the Hindu Marriage Act filed by her husband Beenu Mehta against her having title 'Beenu Mehta @ Balwinder Kumar Vs. Divya' pending in the Court of District and Sessions Judge, Ferozepur to the Court of competent jurisdiction at Kapurthala

According to version of the applicant, the marriage performed between the parties on 13.12.2015 did not work. Though the couple was blessed with a child. On account of demand of more dowry raised by respondent and his parents, which she could not get fulfilled by her parents, she was harassed and maltreated and ultimately turned out of the matrimonial home on 28.6.2016. She had no other place to go except the house of her parents at Kapurthala. She has submitted a complaint to SSP,

Kapurthala on 30.6.2016 where the compromise was effected between the parties on 16.7.2016. However, there was no change in the behaviour of the respondent and his family members. Compromise took place but things were back to the earlier stage. Ultimately, the applicant left the matrimonial home. She has lodged F.I.R. No. 0286 dated 28.12.2016 for offences under Sections 498-A and 406 IPC against the respondent and his family members. She has also filed a petition under Section 125 Cr.P.C. against the respondent besides filing a complaint under Section 12 of Protection of Women from domestic Violence Act, 2005. As a counter blast, the respondent has filed divorce petition against the applicant in the Court at Ferozepur. Under the circumstances, it is difficult for her to travel from her parental place to Ferozepur covering a distance of 150 kms 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 his counsel and is opposing the application vehemently contending that a relative of the applicant is a practicing Advocate at Kapurthala and respondent has an apprehension that he may face difficulty in pursuing the matter in the Court at Kapurthala. He has further stated that respondent is ready to take the applicant back to the matrimonial home. Responding to this contention, counsel for the applicant has contended that several settlements have taken place between the parties earlier but respondent has not honoured the same, therefore, the applicant is not interested to have an amicable settlement with the respondent. Though one of the relatives of the applicant is a lawyer but he is not in active practice.

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

I find that merely because of the fact that one of the relatives of the applicant is an Advocate does not mean that he can influence judicial proceedings in any manner. Further more with regard to the offer of the respondent through his counsel to take applicant back to the matrimonial home, since counsel for the applicant has stated that several compromise have taken place between the parties but respondent had not honoured the same and this very request can be made by the respondent to the Court where the case may be transferred.

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 District and Sessions Judge, Ferozepur and transferred to the Court of District Judge, Kapurthala for disposal in accordance with law. Learned District Judge, Kapurthala may retain the petition on his board or assign it to any other Court of competent jurisdiction.

The parties through their counsel are directed to appear in the transferee Court on 25.11.2019. Copies of orders be sent to the Court of District and Sessions Judge, Ferozepur as well as to the Court of District Judge, Kapurthala for information and necessary compliance.

(H.S. MADAAN)
JUDGE

October 24, 2019

p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No