

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

T.A. No. 380 of 2019

DATE OF DECISION :- November 01, 2019

Elisha

...Applicant

Versus

Robin

...Respondent

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

Present:- Mr. Kunwar Rajan, Advocate for the applicant.

Mr. Ravish Bansal, Advocate for the respondent.

Applicant Elisha, aged about 19 years, estranged wife of Robin -respondent, presently residing with her mother at Sri Muktsar Sahib on account of matrimonial discord between the spouses, by way of filing the instant application seeks transfer of petition under Section 9 of the Hindu Marriage Act filed by her husband Robin against her having title 'Robin Soni vs. Elisha' pending in the Court of Additional Civil Judge (Sr. Divn.), Abohar to the Court of competent jurisdiction at Sri Muktsar Sahib.

According to the applicant, the marriage performed between the parties on 20.6.2018 ran into rough weather. The couple was not blessed with any child. On account of harassment and maltreatment meted out to the applicant by the respondent and his family members she had to leave the matrimonial home and start residing with her mother at Sri Muktsar Sahib. She does not have any source of income. She has filed a petition under Section 125 Cr.PC. against the respondent at Sri Muktsar Sahib. She has put a complaint to the police against the respondent and has levelled serious allegation of physical

and sexual assault at the hands of Navdeep Singh-cousin of the respondent. The respondent has filed the petition in question against the applicant as a pressure tactic. Under the circumstances, it is difficult for her to travel from Sri Muktsar Sahib to Abohar 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.), Abohar and transferred to the Court of District Judge, Sri Muktsar Sahib for disposal in accordance with law. Learned District Judge, Sri Muktsar Sahib 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 2.12.2019. Copies of orders be sent to the Court of Additional Civil Judge (Sr. Divn.), Abohar as well as to the Court of District Judge, Sri Muktsar Sahib for information and necessary compliance.

(H.S. MADAAN)
JUDGE

November 01, 2019

p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No