

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

TANo. 406 of 2019 (O&M)

Date of decision : 29.10.2019

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Amandeep Kaur

.....Applicant

vs.

Inpinder Singh

.....Respondent

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. Parminder Singh, Advocate for the applicant.

Mr. Lalit Rishi, Advocate for

Mr. Vivek Aggarwal, Advocate for the respondent.

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H. S. Madaan, J. (Oral)

Applicant – Amandeep Kaur, aged about 30 years, estranged wife of Inpinder Singh, presently residing with her parents at Chandigarh, on account of matrimonial discord between the parties, by way of filing the present application under Section 24 CPC, seeks transfer of petition under Section 9 of the Hindu Marriage Act, 1955, for restitution of conjugal rights, filed by her husband, who is respondent in the present application, against her, having title 'Inpinder Singh vs. Amandeep Kaur' pending before Additional Principal Judge, Family Court, Ambala, to a Court of competent jurisdiction at Chandigarh.

As per version of the applicant, the marriage solemnized between the parties on 25.10.2015, ran into rough weather. She was harassed and maltreated. The couple was however, blessed with a daughter namely, Ibadat on 10.2.2018, which was a premature delivery, occasioned on account of merciless beatings given to the applicant by her mother-in-law. The applicant was forced to leave the matrimonial home and she is putting up with her parents alongwith minor daughter of the parties. She has filed a petition under the Protection of Woman from Domestic Violence Act, 2005, against the respondent, which is pending before JMIC, Chandigarh. She has also filed a petition under Section 125 Cr.P.C. against the respondent before JMIC, Chandigarh. She has lodged FIR No. 19 dated 6.1.2019, for offences under Sections 323, 406, 498-A IPC, against the respondent and his relatives with Police Station Women, Chandigarh. The respondent has brought the petition under Section 9 of the Hindu Marriage Act, against the applicant in the Court at Ambala, just to cause inconvenience and harassment to the applicant. Under the circumstances, it is difficult for the applicant to travel from Chandigarh to Ambala City 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 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 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, I find that ends of justice demand that the application be allowed.

Accordingly, the application is accepted. The petition in

question pending in the court of Additional Principal Judge, Family Court, Ambala, is withdrawn from that Court and transferred to the Court of District Judge, Chandigarh, who may retain the case on his Board or assign it to any other Court of competent jurisdiction for disposal in accordance with law. Parties through counsel are directed to appear there on 28.11.2019.

A copy of the order be sent to the Courts concerned, for information and necessary compliance.

29.10.2019
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(H.S. Madaan)
Judge

Whether speaking / reasoned Yes / No

Whether reportable Yes / No