

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

TA-438-2019 (O&M)

Date of decision: 12.09.2019

Hema

...Applicant

Versus

Gautam Walia

...Respondent

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

Present: Mr. Vivek Suri, Advocate for the applicant.

Mr. Surinder Saini, Advocate for the respondent.

H.S. MADAAN, J. (Oral)

Applicant Hema, aged about 38 years, estranged wife of respondent Gautam Walia, presently residing with her parents at Rohtak, on account of matrimonial discord between the spouses, by way of filing the present application, seeks transfer of divorce petition, filed by her husband, the respondent against her having title 'Gautam Walia Vs. Hema' pending before Principal Judge, Family Court, Sonapat to the Court of competent jurisdiction at Rohtak.

According to the applicant, the marriage solemnized between the parties on 12.12.2006 did not work, though, the couple was blessed with a son, namely Chinmay Walia, born on 19.12.2007. The parties are residing separately since 02.03.2015. The minor son of the parties is in the custody of the applicant. The applicant has filed a petition under Section 125 Cr.P.C. against the respondent in Court at Rohtak, where interim maintenance @ Rs.6000/- per month has been granted to her. The

respondent has filed the petition in question against the applicant just to harass her. The applicant being a young woman, having no source of income, taking care of minor son of the parties, who is school going, it is difficult for her to travel from her parental place to Sonapat, to attend the dates of hearing in the Court there, covering a distance of about 70 kms on one side. Furthermore, there is no male member in the parental family of the applicant to accompany her to Sonapat to attend the dates of hearing in a Court there. Therefore, the present application be accepted.

Notice of the application was given to the respondent who put in appearance through counsel and fled written reply 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 Ray** Versus **Ravibhai Govindbhai Ray**, 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 Principal Judge, Family Court, Sonapat and transferred to Family Court at Rohtak for disposal in accordance with law.

The parties through counsel are directed to appear in the transferee Court on 18.10.2019. Copies of orders be sent to both the Courts for information and necessary compliance.

12.09.2019

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(H.S. MADAAN)
JUDGE

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