

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

TA-1005-2018 (O&M)

Date of decision: 04.04.2019

Khushpreet Kaur

...Applicant

Versus

Harjinder Singh

...Respondent

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

Present: Mr. V.K. Gupta, Advocate for the applicant.

Mr. KBS Mann, Advocate for the respondent.

\*\*\*\*

**H.S. MADAAN, J. (Oral)**

This application for transfer of divorce petition titled 'Harjinder Singh Vs. Khushpreet Kaur' pending in the Court of District Judge, Sri Muktsar Sahib to the Court of competent jurisdiction at Bathinda, has been filed by applicant Khushpreet Kaur, aged about 26 years, wife of respondent Harjinder Singh, resident of Village Gumti Kalan, District Bathinda, presently residing at Gali No.18, Ajit Road, Bathinda, on account of differences between the spouses.

According to the applicant, the marriage solemnized between the parties on 02.03.2014 ran into rough weather, on account of demand of more dowry by the respondent and his family members. Ultimately, the applicant was turned out of the matrimonial home. She had no other place to go except the house of her parents at Bathinda.

The respondent has filed a divorce petition against the applicant in Court of District Judge, Sri Muktsar Sahib. The applicant came to know about the said petition when she got a notice thereof. According to the applicant, the respondent has filed a divorce petition against her with mala fide intention just to harass the applicant. According to her, she is a poor woman, having no source of income, it would be difficult for her to travel from Bathinda to Sri Muktsar Sahib to attend the date of hearing in Court there, covering a distance of about 70 kms on one side. The applicant apprehends threat of physical harm at the hands of her husband, the respondent. She has filed a petition under Section 12 of Protection of Women from Domestic Violence Act, 2005 against the respondent and his family members which is pending before CJM, Bathinda. Therefore, the present application be accepted.

Notice of the application was given to the respondent, who has put in appearance and filed a detailed reply, contesting the application vehemently, contending that the respondent was earlier married to sister of the applicant in the year 2009 but she died due to heart attack in the year 2013. She had given birth to a male child from the loins of the respondent in the year 2011, who is presently aged about 08 years and is residing with the respondent. The respondent is looking after the said male child. The parents of the applicant had persuaded the respondent to perform marriage with the applicant, stating that she would take care of the minor child but after the marriage, the applicant mostly used to go to her parental house at

Village Gumti Kalan, District Bathinda on one pretext or the other and she also started leaving the respondent of her own without telling the respondent and her behaviour was also cruel towards parents of the respondent. Ultimately, they started residing separately from the parents of respondent. The attitude of the applicant towards minor son of the respondent was also improper. The applicant had filed a false complaint against the respondent which was dismissed on 22.02.2018 by learned Sessions Judge, Sri Muktsar Sahib. The proceedings in that case continued for three years. The applicant had preferred an appeal before the High Court against the decision of learned Sessions Judge, Sri Muktsar Sahib, however, that appeal was also dismissed by a Division Bench of this Court, vide judgment dated 31.07.2018. As such, the application being without any merit be dismissed.

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

The reasons given in the application for transfer by the applicant and as argued by learned counsel for the applicant clearly outweigh the reasons given by the respondent in the written reply and comparatively inconvenience to the applicant shall be much more, in case this application is declined, than to the respondent, if the same is allowed.

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 Judge, Sri Muktsar Sahib and transferred to Family Court at Bathinda for disposal in accordance with law.

The parties through their counsel are directed to appear in the transferee Court on 02.05.2019. Copies of orders be sent to both the Courts for information and necessary compliance.

04.04.2019

*sumit.k*

**(H.S. MADAAN)**  
**JUDGE**

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