

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

TA No. 1027 of 2018 (O&M)

Date of decision : 2.5.2019

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Prachi Mittal

.....Applicant

vs.

Piyush Mittal

.....Respondent

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

Present: Mr. Arman Gagneja, Advocate for
Mr. Munish Gupta, Advocate for the applicant.

Mr. Ruhani Chadha, Advocate for the respondent.

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H. S. Madaan, J. (Oral)

Applicant Prachi Mittal, aged about 23 years, estranged wife of Piyush Mittal, presently residing with her parents at Amlah, Mandi Gobindgarh, District Fatehgarh Sahib, on account of differences between the spouses, by way of filing the present application seeks transfer of divorce petition filed by her husband, who is respondent in the present application, against her, having title 'Piyush Mittal vs. Prachi Mittal', pending in the Court of Additional District and Sessions Judge, Jalandhar, to a Court of competent jurisdiction at Fatehgarh Sahib.

According to the applicant, the marriage solemnized

between the parties on 1.2.2017, ran into rough weather, though the couple was blessed with a male child, namely, Master Aryan Mittal, born on 25.1.2018. The cause for differences between the parties was demand of dowry raised by the respondent and his family members from the applicant and on her inability to do so, they treated her with cruelty. Ultimately, while the applicant was in family way, she was turned out of the matrimonial home by giving severe beatings on 6.8.2017. She had no other place to go except house of her parents at Mandi Gobindgarh. She gave birth to the male child at her paternal place. However, the respondent did not come to see her and the minor son. The applicant had got registered FIR No. 48 dated 26.3.2018, for offences under Sections 406, 420, 120-B IPC against respondent and his two relatives at Police Station, Mandi Gobindgarh. She has filed a petition under Section 12 of the Protection of Women from Domestic Violence Act, 2005, before SDJM, Amloh. She has also filed a suit for maintenance before Additional Civil Judge (Senior Division), Amloh. As a counter blast, the respondent has filed divorce petition against her in the Court at Jalandhar. According to the applicant, she being a young woman, taking care of the minor son of the parties, having no source of income, it is difficult for her to travel from Mandi Gobindgarh to Jalandhar, to attend the dates of hearing in Court there, by covering a distance of about 120 kms on one side. Therefore, the application be accepted.

Notice of the application was given to the respondent, who has put in appearance through counsel, vehemently contesting the

application 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 District and Sessions Judge, Jalandhar, is withdrawn from that Court and transferred to the Court of District Judge, Fatehgarh Sahib, 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 29.5.2019.

To address the concern of the respondent that he may be subjected to physical harm by family members of the applicant, when he goes to Fatehgarh Sahib, in connection with attending dates of hearing, Senior Superintendent of Police, Fatehgarh Sahib, is directed to take necessary steps to ensure that no physical harm is caused to the respondent or any of the persons accompanying him, to attend the dates of hearing in Court at Fatehgarh Sahib.

A copy of the order be sent to the Courts concerned and Senior Superintendent of Police, Fatehgarh Sahib, for information and necessary compliance.

2.5.2019
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(H.S. Madaan)
Judge

Whether speaking / reasoned

Yes / No

Whether reportable

Yes / No