

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

T.A. No. 1046 of 2018

DATE OF DECISION :- March 20, 2019

Smt. Pinki

...Applicant

Versus

Amit

...Respondent

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

Present:- Mr. Sandeep Parkash Chahar, Advocate for the applicant.

Applicant Smt. Pinki, aged about 31 years, wife of Amit-respondent, presently residing with her parents at Rohtak on account of matrimonial discord between the spouses, by way of filing the instant application seeks transfer of petition under Section 13(1) (ia) of the Hindu Marriage Act filed by her husband Amit against her having title 'Amit Vs. Pinky' pending in the Court of Additional District Judge, Chandigarh to the Court of competent jurisdiction at Rohtak.

According to the applicant, marriage solemnized between the parties on 28.5.2009 ran into rough weather. The applicant was treated with cruelty by the respondent and his family members in connection with demand of more dowry. In May, 2010 respondent was arrested by the police in company of some woman in an objectionable situation, however, the respondent had apologized and promised to mend his way. The couple was

blessed with a son on 27.12.2011, who was named as Parth. The respondent started taking drugs and living an immoral life. He is having relation with a woman namely Ria of Mohali. Father of applicant had submitted a written complaint to the police, however, the same was withdrawn after the respondent had tendered an apology. On 10.8.2018, the respondent assaulted the applicant and inflicted knife blows upon her. She was taken to hospital where she was medico legally examined. In-laws family of the applicant rather forced the applicant out of the matrimonial home taking custody of the minor son of the parties with them. The applicant has lodged an F.I.R. No. 509 dated 23.8.2018 for offences under Sections 323, 34, 406, 498-A, 506 IPC with Police Station Shivaji Colony, Rohtak against the respondent and his family members. She has filed a petition under Section 12 of Protection of Women from Domestic Violence Act, 2005 in the Court at Rohtak. The respondent has filed the divorce petition against the applicant on false and frivolous grounds. The applicant being a house hold lady, having no source of income, it is difficult for her to travel from Rohtak to Chandigarh covering a distance of about 250 kms on one side so as to attend the dates of hearing there, therefore, the application be accepted.

Notice of the application was given to the respondent, who as per office report has been duly served through his counsel in the trial Court but he has not turned up to offer a contest.

I have heard learned counsel for the applicant 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 District Judge, Chandigarh and transferred to Family Court at Rohtak for disposal in accordance with law.

The parties through their counsel are directed to appear in the transferee Court on 24.4.2019. Copies of orders be sent to the Court of Additional District Judge, Chandigarh as well as to the Family Court at Rohtak for information and necessary compliance.

(H.S. MADAAN)
JUDGE

March 20, 2019
p.singh

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