

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

TA-1055-2018 (O&M)

Date of decision: 12.07.2019

Kamaljit Kaur

...Applicant

Versus

Rakesh Kumar

...Respondent

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

Present: Mr. L.S. Bhullar, Advocate for
Mr. M.K. Bali, Advocate for the applicant.

Mr. J.S. Dadwal, Advocate for the respondent.

H.S. MADAAN, J. (Oral)

Applicant Kamaljit Kaur, aged about 34 years, estranged wife of respondent Rakesh Kumar, presently residing with her parents at VPO Mionwal, Tehsil Phillaur, District Jalandhar, by way of filing the present application, seeks transfer of petition under Section 9 of the Hindu Marriage Act, filed by her husband, the respondent against her having title 'Rakesh Kumar Vs. Kamaljit Kaur' pending in the Court of Addl. Civil Judge (Sr. Divn.), Phagwara, District Kapurthala to the Court of competent jurisdiction at Phillaur, District Jalandhar.

According to the applicant, the marriage solemnized between the parties on 16.06.2013 did not work, though the couple was blessed with two children i.e. a son, namely Devansh and a daughter namely Gurnoor, born on 21.06.2014 and 25.08.2016 respectively.

Both of them are presently residing with the applicant. The applicant was maltreated by the respondent and his family members and ultimately on 18.07.2017, she along with two minor children of the parties was thrown out of the matrimonial home. The applicant had no other place to go except the house of her parents; that the applicant does not have any source of income; that she has filed a petition under Section 125 Cr.P.C. against the respondent in Court at Phillaur. As a counter blast, the respondent has filed the petition in question at Phagwara. The applicant having financial constraints, taking care of two minor children of the parties, it is difficult for the applicant to travel from her parental place to Phagwara to attend the dates of hearing in the Court there, covering a distance of about 40 kms on one side. Therefore, the present application be accepted.

Notice of the application was given to the respondent who 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 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 Addl. Civil Judge (Sr. Divn.), Phagwara, District Kapurthala and transferred to the Court of Addl. Civil Judge

(Sr. Divn.), Phillaur, District Jalandhar for disposal in accordance with law.

The parties through their counsel are directed to appear in the transferee Court on 09.08.2019. Copies of orders be sent to both the Courts for information and necessary compliance.

12.07.2019
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(H.S. MADAAN)
JUDGE

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