

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

T.A. No. 611 of 2017

DATE OF DECISION :-March 29, 2019

Shefali Khandelwal

...Applicant

Versus

Saurabh Khandelwal

...Respondent

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

Present:- Mr. V.B.Aggarwal, Advocate
for the applicant with the applicant in person

Mr.P.K.Dwivedi, Advocate
for the respondent

H.S.MADAAN, J. :

Respondent is not present in the Court. Learned counsel for the respondent states that he is putting in an appearance in a criminal case pending in the Court at Panchkula, therefore, is unable to appear in this Court. He has further submitted that the amicable settlement is not possible between the parties since terms and conditions as suggested by the applicant are not acceptable to the respondent. Let the case proceed further on merits.

Applicant Shefali Khandelwal, aged about 33 years estranged wife of Saurabh Khandelwal-respondent, presently residing with her parents at Panchkula, on account of strained relations between the spouses, by way of filing the instant application seeks transfer of petition under Section 13 of the Hindu Marriage Act filed by her husband Saurabh Khandelwal-respondent, against her having title 'Saurabh Khandelwal vs. Shefali Khandelwal' pending in the Court of District Judge, Family Court, Gurgaon, to the Court of competent jurisdiction at Panchkula.

According to the applicant, the marriage performed between the

parties on 29.04.2013 ran into rough weather on account of demand of dowry by respondent and his family members. The applicant was deserted by her husband, as such she has been putting up with her parents at Panchkula. She has filed a petition under Section 9 of the Hindu Marriage Act, 1955, in Civil Courts, Panchkula. The applicant is dependent upon her father having been ousted from the matrimonial home. The respondent has filed a divorce petition against her just to put pressure upon the applicant. It is difficult for the applicant to travel from Panchkula to Gurugram covering a distance of more than 280 kms on one side so as to attend the dates of hearing in the Court there, therefore, the application be accepted.

Notice of the application was given to the respondent, who put in appearance through counsel. The respondent has filed the reply, opposing the application denying the allegations therein contending therein that as a matter of fact, the applicant is living in the house at Gurugram, which the parties had taken on lease and lease deed is between the landlord and the applicant. It was the respondent who was forced to move out of the said house. The applicant is paying the electricity bills and has got a gas connection at the said address. She has wrongly claimed that she is residing with her parents at Panchkula. The applicant is working as a Manager in DLF Brands Limited (Pure Home Living), situated at DLF Phase-V, Gurugram and there is no reason to transfer the case to the court at Panchkula. Therefore, the application be dismissed.

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

It is a specific case of the applicant that she has since been residing with her parents at Panchkula, having been ousted from her matrimonial home. Though, the respondent claims that the applicant is still putting up in the house at Gurugram, which the parties had taken on lease.

But it does not appeal to reason that the applicant herself putting up at Gurugram and statedly working in a concern over there would ask for transfer of the divorce petition in question to a court at Panchkula, since travelling from Gurugram to Panckhula would be inconvenient for her also. The very fact that she is seeking transfer of divorce petition to a court of competent jurisdiction at Panchkula goes to show that she has been putting up at Panchkula and not at Gurugram. Though, according to the respondent, that applicant has been working in a concern at Gurugram, counsel for the applicant has contended that she has since left that job and is not doing any work presently. Rather, she is residing with her parents at Panchkula and is dependent upon her father for meeting her basic needs. Under the circumstances, asking the applicant, a young woman, stated to be presently dependent upon her father for her financial requirements, to travel from Panchkula to Gurugram, travelling a distance of 280 Kms. on one side, would not be proper and appropriate.

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 (Family Court), Gurugram and transferred to Family Court at Panchkula for disposal in accordance with law.

The parties through their counsel are directed to appear in the transferee Court on 26.4.2019. Copies of orders be sent to the Court of District Judge (Family Court), Gurgaon as well as to the Family Court at Panchkula for information and necessary compliance.

(H.S. MADAN)
JUDGE

29.03.2019

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Whether speaking/reasoned

Yes/No.

Whether reportable-

Yes/No