

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

TA-1078-2018 (O&M)
Date of Decision:-27.08.2019

Ritu Hans

...Applicant

Versus

Sanjiv Kumar

...Respondent

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

Present: Mr. APS Chaudhary., Advocate for the applicant.

Mr. Mohit Garg, Advocate for the respondent.

H.S. MADAAN, J. (Oral)

Applicant Ritu Hans, aged about 46 years, estranged wife of respondent Sanjiv Kumar, presently residing with her parents at Ludhiana, 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 'Sanjiv Kumar Vs. Ritu Hans' pending in the Court of Principal Judge, Family Court, Karnal to the Court of competent jurisdiction at Ludhiana.

As per version of the applicant, the marriage solemnized between the parties in the year 1994 did not work due to demand of more dowry raised by the respondent and his family members, which the applicant could not get fulfilled from her parents. The couple was blessed with two children i.e. a daughter aged about 22 years and a son aged about 15 years. In the month of May 2013, the applicant was compelled to leave

the matrimonial home. She had no other place to go except the house of her parents at Ludhiana. Children of the parties are also putting up with her there. She does not have any source of income and is dependent upon her parents for meeting her financial needs and those of her children. She has filed a petition under Section 125 Cr.P.C., besides another petition under provision of Protection of Women from Domestic Violence Act, 2005 against the respondent in Courts at Ludhiana. The respondent has filed the petition in question against the applicant just to harass her. Under the circumstances, it is difficult for the applicant to travel from her parental place to Karnal, to attend the dates of hearing in the Court there, covering a distance of about 200 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 filed a written reply and is opposing the application vehemently, contending that the respondent is suffering from various medical problems including cirrhosis of liver. As such, due to health problem, it is difficult for him to take up travelling. The applicant is doing business in the name of Ritu Creations at Ludhiana and earning handsome amount. Daughter of the parties is financially independent and she has been selected as crew member in Vistara Airlines. The applicant has intentionally left the company of respondent. Therefore, the present application be dismissed.

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.

Though, the respondent has placed on file certain documents in support of his contentions that he is having a medical problem but then learned counsel for the applicant has contended that the respondent is

physically active and has been visiting various places, putting up the photographs and videos in that regard on his facebook account. He has placed on file photocopies of various photographs and messages in support of that contention. Though, learned counsel for the respondent has contended that photographs are doctored and wrong but nothing of that sort comes out to be there.

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 Principal Judge, Family Court, Karnal and transferred to Family Court at Ludhiana for disposal in accordance with law.

The parties through their counsel are directed to appear in the transferee Court on 01.10.2019. Copies of orders be sent to both the Courts for information and necessary compliance.

27.08.2019

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

Whether speaking/reasoned :

Yes

No

Whether Reportable :

Yes

No