

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

T.A. No. 1102 of 2018

DATE OF DECISION :- March 29,2019

Pinki

...Applicant

Versus

Sonu @ Bansi

...Respondent

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

Present:- Mr.Sushil Bhardwaj, Advocate for the applicant.

Mr.Harish Bhardwaj, Advocate for the respondent.

H.S.MADAAN, J. :

By way of filing the present application, applicant Pinki, aged about 27 years, estranged wife of Sonu @ Bansi-respondent presently residing with her parents at Saman (Puththi), Tehsil Hansi, District Hissar, seeks transfer of petition under Section 13(1)(ia) of the Hindu Marriage Act, 1955 filed by her husband Sonu @ Bansi against her having title 'Sonu @ Bansi vs. Pinki' pending in the Court of Additional District Judge, Charkhi Dadri to the Court of competent jurisdiction at Hissar.

According to the applicant, the marriage between the parties which was solemnized on 12.02.2013 at village Saman (Puththi), Tehsil Hansi, District Hissar, ran into rough weather. Though, the couple was blessed with a female child namely Himani, born on 23.12.2013. The circumstances were so created by the respondent and his family members that the applicant along with her minor daughter had to leave the matrimonial home and start residing with her parents at village Saman (Puththi), Tehsil Hansi, District Hissar. The applicant has lodged FIR

No.555 dated 27.09.2014, under Section 498-A/406 IPC, at Police Station Narnaund, District Hissar. The respondent has been facing trial in the said complaint. According to the applicant, she does not have any source of income and is unable to maintain herself and the minor child. The applicant further contends that she has filed a petition under the Protection of Women from Domestic Violence Act, 2005, against the respondent and his family members in a Court at Hansi, District Hissar and as a counter blast, the respondent has filed divorce petition against her in the Court at Charkhi Dadri. The applicant being a young woman, taking care of the minor daughter of the parties, having no source of income, it is difficult for her to travel from her parental home at village Saman (Puththi), Tehsil Hansi, District Hissar to Charkhi Dadri, covering a distance of 95 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.

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, Charkhi Dadri and transferred to Family Court at Hissar 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 Additional District Judge, Charkhi Dadri as well as to the Family Court at Hissar 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