

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

TA-640-2017(O&M)

Date of decision:-14.3.2019

Kamni

...Applicant

Versus

Vijay Kumar

...Respondent

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

Present : Mr.Ramesh Sharma, Advocate
for the applicant.

Mr.Veneet Chaudhary, Advocate
for the respondent.

H.S. MADAAN, J.(ORAL)

By way of filing the present application, the applicant – Kamni, aged about 31 years, estranged wife of respondent – Vijay Kumar, presently residing with her parents at Ambala on account of matrimonial discord between the parties, seeks transfer of petition under Section 9 of the Hindu Marriage Act titled 'Vijay Kumar Versus Kamni' filed by her husband pending in the Court of Additional Civil Judge (Sr.Divn.), Panchkula to the Court of competent jurisdiction at Ambala.

Inter alia, it is contended by the applicant that the marriage

solemnized between the parties on 23.9.2009 did not work, though the couple was blessed with a daughter on 13.10.2010; that the applicant had to leave the matrimonial home and start residing with her parents at Ambala city; that she has filed a petition under Section 12 of Protection of Women from Domestic Violence Act in the Court at Ambala against the respondent and others, notice of which has been given to respondents; that the applicant has also filed a petition under Section 125 Cr.P.C. for herself and on behalf of the minor daughter in her custody against respondent in the Court at Ambala; that as a counter-blast, the respondent has filed a petition under Section 9 of the Hindu Marriage Act against the applicant. According to the applicant, she being a young woman taking care of minor daughter of the parties in financial constraints, it is difficult for her to travel from Ambala to Panchkula covering a distance of about 65 kms. on one side to attend the dates of hearing. Therefore, the application be accepted.

Notice of the application was given to respondent, who put in appearance and opposed the application.

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 must 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.

Therefore, the application stands allowed and the petition under Section 9 of Hindu Marriage Act pending in the Court of Additional Civil Judge (Sr.Divn.), Panchkula is ordered to be transferred to District Judge, Family Court, Ambala. The parties are directed to appear before District Judge, Family Court, Ambala on 25.4.2019.

Copy of this order be sent to District & Sessions Judge, Panchkula as well as District Judge, Family Court, Ambala for information and necessary compliance.

14.3.2019
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No