

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

TA-1124-2018 (O&M)
Date of decision: 18.07.2019

Kamaldeep Kaur

...Applicant

Versus

Gurjit Singh

...Respondent

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

Present: Mr. G.S. Sandhu, Advocate for the applicant.

Mr. Surinder Garg, Advocate for the respondent.

H.S. MADAAN, J. (Oral)

This application for transfer of petition under Section 9 of the Hindu Marriage Act, titled 'Gurjit Singh Vs. Kamaldeep Kaur' pending in the Court of District Judge, Family Court, Faridkot to the Court of competent jurisdiction at Bathinda, has been filed by applicant Kamaldeep Kaur, aged about 27 years, estranged wife of respondent Gurjit Singh, presently residing with her parents at Bathinda, on account of matrimonial differences between the parties.

According to the applicant, she is residing with her parents at Bathinda, after being forced to leave the matrimonial home on account of maltreatment and harassment at the hands of respondent. She does not have any source of income. She is taking care of two sons of the parties, namely, Master Amandeep Singh and Master Harshdeep Singh, aged about 07 and 06 years respectively. She has filed a petition under

Protection of Women from Domestic Violence Act, 2005 against the respondent in Court at Bathinda. She being a young woman, having financial constraints, it is difficult for the applicant to travel from her parental place to Faridkot to attend the dates of hearing in the Court there, covering a distance of about 80 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 Ray** 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 District Judge, Family Court, Faridkot and transferred to Family Court at Bathinda for disposal in accordance with law.

The parties through counsel are directed to appear in the transferee Court on 21.08.2019. Copies of orders be sent to both the Courts for information and necessary compliance.

18.07.2019

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(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :

Yes No

Whether Reportable :

Yes No