

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

TA No. 163 of 2018 (O&M)

Date of decision : 17.7.2019

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Aarti

.....Applicant

vs.

Eshan

.....Respondent

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. Ashok Giri, Advocate for the applicant.

Mr. S. K. Verma, Advocate for the respondent.

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H. S. Madaan, J.

CM 14405-CII of 2019

This is an application for placing on record complaint moved by applicant-wife against her husband for having forcibly taken away daughter of the parties as Annexure P-5 and seeking exemption from filing certified copy thereof.

Heard.

Allowed subject to all just exceptions.

Main case.

Applicant Aarti, aged about 22 years, estranged wife of respondent Eshan, presently residing separately from her husband at Panipat, on account of differences between the spouses, by way of filing the present application, seeks transfer of divorce petition, filed by her husband – respondent against her, having title 'Eshan vs. Aarti' pending in the Court of Additional District Judge, Jind to a Court of competent jurisdiction at Panipat.

As per case of the applicant, the marriage solemnized between the parties on 5.12.2014 at Panipat, ran into rough weather. However, the couple was blessed with a daughter namely, baby Inaya. On account of maltreatment at the hands of respondent, the applicant had to leave the matrimonial home. She is residing at Panipat alongwith minor daughter of the parties. She has filed a petition under Section 125 Cr.P.C. for herself and on behalf of minor daughter in the Court at Panipat. She has lodged FIR No. 193 dated 14.2.2018 for offences under Sections 323, 377, 498-A, 34 IPC at Police Station Panipat. In addition to that she has filed petition under the Protection of Woman from Domestic Violence Act and another petitioner under Section 9 of the Hindu Marriage Act, against the respondent in the Court at Panipat. As a counter blast, the respondent has filed the divorce petition against her. Under the circumstances, it is difficult for her to go from Panipat to Jind to attend the dates of hearing in the Court there, covering a distance of 88 kms on one side. Therefore, the 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.

A perusal of the copy of divorce petition, transfer of which is being sought by the applicant, goes to show that there are serious allegations against the applicant that she is a quarrelsome woman, who had been picking up quarrels with the respondent and his family members quite often. It is further alleged that she had left the matrimonial home while she was in the family way going to her parental house, where she had given birth to a daughter. She used to create scene in the street by crying loudly. She even threatened to commit suicide. She alongwith her relatives had given beatings to her husband at the Police Station in presence of the police officials. A written complaint regarding the incident was made to the Police Station Incharge Assandh Road, Model Town, Panipat. Since the police did not take any action, Eshan husband of the applicant had to file a private complaint in the Court.

A perusal of DDR No. 21 dated 9.5.2018, goes to show that during mediation proceedings at Mediation and Reconciliation Centre, Jind, on 9.5.2018, the applicant had created a scene and herself left minor daughter of the parties outside the Mediation Centre at Jind and despite being called repeatedly, she had not returned, while the minor child kept crying outside the Mediation Centre, unattended. A report in this regard was lodged by Mr. B.S. Kaushal, Mediator, Mediation and Reconciliation Centre, Jind.

Under the circumstances, the application does not deserve to be accepted and the same is dismissed accordingly.

17.7.2019
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(H.S. Madaan)
Judge

Whether speaking / reasoned Yes / No

Whether reportable Yes / No