

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

TA-241-2018 (O&M)
Date of decision: 27.03.2019

Zaira Nagpal

...Applicant

Versus

Vishal Sethi

...Respondent

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

Present: Mr. Lupil Gupta, Advocate for the applicant.

Mr. Nitin Narula, Advocate for the respondent.

H.S. MADAAN, J. (Oral)

As per office report, mediation has not proved to be successful. Let the case proceeds further on merits.

This application for transfer of divorce petition titled 'Vishal Sethi Vs. Zaira Nagpal' pending in the Court of District Judge, Ferozepur to the Court of competent jurisdiction at Fazilka, has been filed by applicant Zaira Nagpal, aged about 27 years, wife of respondent Vishal Sethi, presently residing with her parents at Fazilka.

According to the applicant, the marriage solemnized between the parties on 18.10.2015 did not work. The couple was not blessed with any child. On account of cruel treatment meted out to her by the respondent and his family members, she was forced to leave the matrimonial home and start residing with her parents at Fazilka; that she had reported the matter to the police, however, no action has been taken

against the respondent and his family members. The respondent has filed a divorce petition against the applicant as a pressure tactic. Applicant contends that she is a young woman; her brother has expired; her parents are aged. She does not have any source of income. There is no one in the family to accompany her to Ferozepur to attend the dates of hearing in Court there. The distance between her parental place and Ferozepur is about 90 kms on one side. She also apprehends danger to her life at the hands of respondent and his family members, whenever, she goes to Ferozepur. Therefore, the present application be accepted.

Notice of the application was given to the respondent, who has put in appearance. The application in question is being opposed vehemently, stating that no ground is made out to transfer of the application and that the distance between Fazilka and Ferozepur is not much, which can be easily covered, since there is a good road connectivity between two places. As such, 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 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, Ferozepur and transferred to the Court of learned District Judge, Fazilka for disposal in accordance with law. Learned District Judge, Fazilka may retain the petition on his board or assign it to any other Court of competent jurisdiction.

The parties through their counsel are directed to appear in the transferee Court on 25.04.2019. Copies of orders be sent to both the

Courts for information and necessary compliance.

27.03.2019

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(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No