

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

TA-297-2018 (O&M)

Date of decision: 10.07.2019

Naresh Devi

...Applicant

Versus

Sukhwinder Singh

...Respondent

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

Present: Mr. Munish Kumar, Advocate for the applicant.

Ms. Shruti Rathor, Advocate for

Mr. T.P. Singh, Advocate for the respondent.

H.S. MADAAN, J. (Oral)

Applicant Naresh Devi, aged about 31years, estranged wife of respondent Sukhwinder Singh, presently residing with her parents at SBS Nagar (Nawanshahr), on account of differences between the spouses, seeks transfer of divorce petition filed by her husband, the respondent against her having title 'Sukhwinder Singh Vs. Naresh Devi' pending in the Court of Addl. District Judge, SAS Nagar to the Court of competent jurisdiction at SBS Nagar (Nawanshahr).

According to the applicant, the marriage solemnized between the spouses on 02.09.2016 at Balachaur ran into rough weather. The couple was not blessed with any child. The applicant was forced to leave the matrimonial home. She had no other place to go except the house of her parents at SBS Nagar (Nawanshahr); that she does not have any source of income and is unable to maintain herself; that she has filed a

petition under Section 125 Cr.P.C. against the respondent in Court at SBS Nagar (Nawanshahr). She has also got registered an FIR No.153 dated 09.12.2017 for offence under Section 498-A IPC against the respondent. The respondent has filed the divorce petition against her as a tool of harassment and to cause trouble to the applicant. The applicant being a young woman, having no source of income, it is difficult for the applicant to travel from her parental place to SAS Nagar (Mohali) to attend the dates of hearing in the Court there, covering a distance of about 100 kms on one side. Therefore, the present application be accepted.

Notice of the application was given to the respondent who put in appearance and is opposing the application vehemently.

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 Addl. District Judge, SAS Nagar and transferred to Family Court at SBS Nagar (Nawanshahr) for disposal in accordance with law.

The parties are directed to appear in the transferee Court on 09.08.2019. Copies of orders be sent to both the Courts for information and necessary compliance.

10.07.2019

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(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :

Yes No

Whether Reportable :

Yes No