

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

TA No. 859 of 2017 (O&M)

Date of decision : 21.2.2019

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Nisha Sharma

.....Applicant

vs.

Abhishek Kumar

.....Respondent

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

Present: Applicant in person with
Mr. Saleem Ahmed, Advocate

Respondent in person with
Mr. D.V. Mehta, Advocate

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H. S. Madaan, J. (Oral)

Applicant – Nisha Sharma, aged about 34 years, estranged wife of Abhishek Kumar, presently residing with her parents at Panchkula, has filed the instant application under Section 24 CPC, seeking transfer of petition under Section 9 of the Hindu Marriage Act, 1955, filed by her husband, who is respondent in the present application, against her, having title 'Abhishek Kumar vs. Nisha Sharma' pending in the Court of Civil Judge (Senior Division), Amritsar, to a Court of competent jurisdiction at Panchkula.

As per averments of the applicant, marriage performed

between the parties on 13.7.2005, at Panchkula, ran into rough weather on account of demand of dowry by the respondent and his family members; that the respondent is addicted to vice of taking alcohol. The applicant had given birth to a male child from the loins of the respondent, who was aged about 3 years at the time of filing of application. According to the applicant, on account of marital discord with her husband, the respondent, she alongwith her minor son had to leave the matrimonial home and start residing with her widowed mother at Panchkula, since her father had already expired. She has filed a petition under the Protection of Women from Domestic Violence Act, 2005, against the respondent in the Court at Panchkula. As a counter blast, the respondent has filed the petition in question against her. According to the applicant she being a young woman, taking care of minor son of the parties, having financial constrains, and no adult male member in her paternal family being there to accompany her, it is difficult for her to go from Panchkula to Amritsar, to attend the dates of hearing in the Court there, covering a distance of 225 kms on one side. Therefore the application be accepted.

Notice of the application was given to the respondent, who had put in appearance through counsel and filed written reply.

The application in question is being opposed vehemently, stating that the respondent is suffering from tuberculoses and for such reason, it is difficult for him to do travelling and in case the petition in question is transferred to Court at Panchkula, then he will face hardship in travelling from Amritsar to Panchkula, to attend the dates

of hearing in Court there. As such the application be dismissed.

I have heard learned counsel for the parties, besides going through the record.

The law is well settled that in such like matters, convenience of the wife is to be taken into consideration. The applicant is a young woman, statedly having no source of income, taking care of the minor son of the parties, with no adult male member in the family being there to accompany her, asking him to travel from Panchkula to Amritsar, covering a distance of about 225 kms on one side, that too frequently in connection with attending dates of hearing there and spending considerable amount on fare etc., is not desirable.

Keeping in view the facts and circumstances of the case, though it is stated that respondent is suffering from tuberculoses, but the medical documents placed on record relates to the year 2017, where home rest has been advised for a limited period. There is nothing on record to show that the respondent is unable to move about and faces a great difficulty in travelling. As a matter of fact, he is present in court in response to the direction issued by this Court. The applicant is also present, though efforts for amicable settlement between them have not proved to be fruitful. The comparative inconvenience to the applicant shall be much more, if the application is declined than the inconvenience caused to the respondent, if the same is allowed.

Therefore, ends of justice demand that the application be allowed.

Accordingly, the application is accepted. The petition in

question pending in the court of Civil Judge (Senior Division), Amritsar, is withdrawn from that Court and transferred to the Family Court at Panchkula, for disposal in accordance with law. Parties through counsel are directed to appear there on 20.3.2019.

A copy of the order be sent to the Courts concerned, for information and necessary compliance.

21.2.2019
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(H.S. Madaan)
Judge

Whether speaking / reasoned	Yes / No
Whether reportable	Yes / No