

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

T.A. No. 310 of 2018

DATE OF DECISION :- April 29, 2019

Neeta

...Applicant

Versus

Amit Kumar

...Respondent

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

Present:- Mr. Vishal Sodhi, Advocate for the applicant.

Learned counsel for the applicant states that the respondent has backed out from the compromise. He has neither taken the applicant along with him back to the matrimonial home nor withdrawn the divorce petition as undertaken by him. There is no representation on behalf of the respondent. Similar was the position on the previous date of hearing. Let the case proceed further on merits.

Applicant Neeta, aged about 28 years, estranged wife of Amit Kumar-respondent, presently residing with her parents at Patiala on account of matrimonial discord between the spouses, by way of filing the instant application seeks transfer of petition under Section 13 (A) of the Hindu Marriage Act filed by her husband Amit Kumar against her having title 'Amit Kumar Vs. Neeta' pending in the Court of Additional District Judge,

Kaithal to the Court of competent jurisdiction at Patiala.

According to the applicant, the marriage solemnized between the parties on 5.10.2013, ran into rough weather though the couple was blessed with a female child namely Baby Seerat on 30.11.2015. The respondent created such a situation in the matrimonial home that the applicant had to walk out of it and start residing with her parents at Patiala. She is having custody of the minor daughter of the parties. She does not have any source of income. She is dependent upon her parents for her financial needs. The respondent has filed divorce petition just to harass the applicant. The applicant has lodged an F.I.R. against the respondent besides filing a petition under Section 125 Cr.P.C. against him in the Court at Patiala. It is difficult for her to travel from Patiala to Kaithal covering a distance of 125 kms on one side so as to attend the dates of hearing in the Court there, therefore, the application be accepted.

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

The matter was referred to the Mediation Centre. As per report received from there, the parties have settled the dispute, however, as stated by learned counsel for the applicant, the respondent has backed out of such settlement. Nobody has appeared for him in the Court for the last two dates of hearing.

I have heard learned counsel for the applicant 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 Rav Versus Ravibhai Govindbhai Rav, 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 Additional District Judge, Kaithal and transferred to

Family Court at Patiala for disposal in accordance with law.

The parties through their counsel are directed to appear in the transferee Court on 27.5.2019. Copies of orders be sent to the Court of Additional District Judge, Kaithal as well as to the Family Court at Patiala for information and necessary compliance.

**(H.S. MADAAN)
JUDGE**

April 29, 2019
p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No