

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

TA-327-2018 (O&M)

Date of decision: 30.05.2019

Minakshi

...Applicant

Versus

Deepak

...Respondent

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

Present: Mr. Manish Mehta, Advocate for the applicant.

Mr. D.D. Sharma, Advocate for the respondent.

H.S. MADAAN, J. (Oral)

This application for transfer of petition under Section 9 of the Hindu Marriage Act titled 'Deepak Vs. Minakshi' pending in the Court of Addl. Civil Judge (Sr. Divn.) Rewari to the Court of competent jurisdiction at Narnaul, District Mahendergarh, has been filed by applicant Minakshi, aged about 29 years, estranged wife of respondent Deepak, presently residing with her parents at Mahendergarh, on account of matrimonial discord between the spouses.

According to the applicant, she is residing with her parents along with minor son of the parties, namely, Master Rohan, aged about 03 years; that she does not have any source of income and is dependent upon her parents; that she has filed a petition under Section 125 Cr.P.C. against the respondent in Court at Mahendergarh. She has also lodged an FIR under Section 498-A etc. of IPC against the respondent at Mahendergarh. The respondent has filed the petition in question against her as a pressure tactic.

It is difficult for her to travel from her parental place to Rewari to attend the dates of hearing in the Court there, covering a distance of about 65 kms on one side. Therefore, the present application be accepted.

Notice of the application was given to the respondent, who put in appearance through counsel, vehemently opposing the application and praying for its dismissal.

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. Civil Judge (Sr. Divn.) Rewari and transferred to the Court of learned District Judge, Narnaul at Mahendergarh, for disposal in accordance with law. Learned District Judge, Narnaul at Mahendergarh 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 25.07.2019. Copies of orders be sent to both the Courts for information and necessary compliance.

30.05.2019

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(H.S. MADAAN)
JUDGE

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