

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

TA-330-2018 (O&M)

Date of decision: 05.07.2019

Aanchal @ Anchal Goenka

...Applicant

Versus

Nitin Jain

...Respondent

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

Present: Mr. Vivek Salathia, Advocate for the applicant.

Mr. Jasraj Singh, Advocate for the respondent.

H.S. MADAAN, J. (Oral)

By way of moving the present application, applicant Aanchal @ Anchal Goenka, aged about 32 years, estranged wife of respondent Nitin Jain, presently residing with her parents at Amritsar, on account of differences between the spouses, seeks transfer of petition under Section 12 of the Hindu Marriage Act, filed by her husband, the respondent against her having title 'Nitin Jain Vs. Aanchal @ Anchal Goenka' pending in the Court of Addl. District Judge, Hoshiarpur to the Court of competent jurisdiction at Amritsar.

According to the applicant, she has filed a petition under Section 125 Cr.P.C., as well as another petition under provisions of Protection of Women from Domestic Violence Act, 2005 against the respondent in Courts at Amritsar. She does not have any source of income. It is difficult for her to travel from her parental place to Hoshiarpur to attend the dates of hearing in the Court there, covering a

distance of about 120 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 and filed written reply, 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. District Judge, Hoshiarpur and transferred to Family Court at Amritsar for disposal in accordance with law.

The parties through their counsel are directed to appear in the transferee Court on 06.08.2019. Copies of orders be sent to both the Courts for information and necessary compliance.

05.07.2019

sumit.k

(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :

Yes

No

Whether Reportable :

Yes

No