

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

TA No. 893 of 2017 (O&M)

Date of decision : 14.8.2019

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Rajnish Kaur

.....Applicant

vs.

Sukhwinder Singh

.....Respondent

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

Present: None for the applicant.

None for the respondent.

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H. S. Madaan, J. (Oral)

CM-8811-CII-2019

This is an application for recalling of order dated 12.3.2019 passed by this Court, vide which the main case was dismissed for non-prosecution.

Record perused.

There are sufficient reasons to re-call the order dated 12.3.2019. Accordingly, the application is accepted and order dated 12.3.2019 is recalled and main case is ordered to be restored at its original number.

Main case.

Applicant – Rajnish Kaur, aged about 28 years, estranged wife of Sukhwinder Singh, presently residing with her parents at Bahman Majra, Post Office Takhatgarh, Tehsil Anandpur Sahib, District Ropar, on account of matrimonial discord between the spouses, by way of filing the present application under Section 24 CPC, seeks transfer of divorce petition, filed by her husband, who is respondent in the present application, against her, having title 'Sukhwinder Singh vs. Rajnish Kaur' pending in the Court of District Judge, Ludhiana, to a Court of competent jurisdiction at Rupnagar, Punjab.

As per averments in the application, the marriage solemnized between the parties on 12.2.2016 ran into rough weather due to demand of more dowry raised by the respondent and his family members, which the applicant could not get conceded from her parents. The couple was blessed with a son on 13.11.2016. Ultimately, the applicant alongwith minor son of the parties was turned out of the matrimonial home in the month of June 2017 and she had no other place to go except the house of her parents at village Bahman Majra. She has filed an application under Section 125 Cr.P.C. before District Judge, Family Court, Rupnagar. The respondent has filed the divorce petition against the applicant in District Court, Ludhiana, despite the fact that such Court does not have any jurisdiction, just to harass the applicant. The applicant being a young woman, having financial constraints, taking care of minor son of the parties, it is difficult for her to travel from her parental

home to Ludhiana, covering a considerable distance, to attend the dates of hearing in Court there, as such the application be accepted.

Notice of the application was given to the respondent, who as per the office report, was duly served but did not opt to put in appearance.

I have gone 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, I find that ends of justice demand that the application be allowed.

Accordingly, the application is accepted. The petition in question pending in the court of District Judge, Ludhiana, is withdrawn from that Court and transferred to the Court of District Judge, Rupnagar, who may retain the case on his Board or assign it to any other Court of competent jurisdiction for disposal in accordance with law. Parties are required to appear there on 17.9.2019.

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

14.8.2019
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(H.S. Madaan)
Judge

Whether speaking / reasoned Yes / No

Whether reportable Yes / No