

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

TA-353-2018 (O&M)
Date of decision: 01.04.2019

Rajdeep Kaur

...Applicant

Versus

Lakhvir Singh

...Respondent

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

Present: Ms. Neha Jain, Advocate for
Mr. K.S. Dadwal, Advocate for the applicant.

None for the respondent.

H.S. MADAAN, J. (Oral)

This application for transfer of divorce petition titled 'Lakhvir Singh Vs. Rajdeep Kaur ' pending in the Court of District Judge, Kapurthala to the Court of competent jurisdiction at Hoshiarpur, has been filed by applicant Rajdeep Kaur, aged about 38 years, wife of respondent Lakhvir Singh, presently residing with her parents at Village Nangal Ishar, Tehsil & District Hoshiarpur, on account of matrimonial discord between the spouses.

According to the applicant, the marriage solemnized between the parties on 01.04.2016 did not work on account of bad vices of the respondent and his rasing demand of dowry from the applicant. The couple was not blessed with any child. Circumstances were so created by the respondent that the applicant had to leave the matrimonial home and start residing with her parents. She has lodged an FIR No.131 dated

09.12.1996 for offences under Sections 406 and 498-A of IPC at Police Station Haryana, District Hoshiarpur against the respondent. The respondent has been challaned and is facing trial in the Court of JMIC, Hoshiarpur. The applicant has filed a petition under Section 125 Cr.P.C., against the respondent in Court at Hoshiarpur. According to the applicant, as a pressure tactic, the respondent has filed the petition in question against her in Court at Kapurthala. The applicant being a young woman, having no source of income, it is difficult for her to travel from her parental place to Kapurthala, to attend the dates of hearing in the Court there, covering a distance of about 60 kms on one side; that earlier also, the respondent had filed a petition under Section 9 of the Hindu Marriage Act against the applicant in Court at Phagwara. The applicant had approached this Court for transfer of that petition from Phagwara to Hoshiarpur. That transfer application bearing No.762 of 2016 was accepted by this Court, however, the petition was withdrawn by the present respondent. The applicant prayed that the present application be accepted.

Notice of the application was given to the respondent, who has put in appearance through counsel and filed reply, contesting the application, praying for its dismissal.

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 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 District Judge, Kapurthala and transferred to Family

Court at Hoshiarpur for disposal in accordance with law.

The parties are directed to appear in the transferee Court on 29.04.2019. Copies of orders be sent to both the Courts for information and necessary compliance.

01.04.2019

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(H.S. MADAAN)
JUDGE

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