

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

TA No. 381 of 2018 (O&M)

Date of decision : 5.4.2019

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Ruhani Chutani

.....Applicant

vs.

Hitesh Kumar

.....Respondent

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

Present: Mr. Jagjot Singh, Advocate for
Mr. Kunal Dawar, Advocate for the applicant.

Ms. Shailja Sharma, Advocate for
Mr. Rajesh Lamba, Advocate for the respondent.

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H. S. Madaan, J. (Oral)

Unfortunately, marriage solemnized between applicant Ruhani Chutani and respondent Hitesh Kumar on 4.3.2017, ran into rough weather. The couple was not blessed with any child. The applicant had to leave the matrimonial home and start residing with her parents at Gurugram. Her husband – respondent has filed a divorce petition titled as 'Hitesh Kumar vs. Ruhani Chutani' against her pending in the Court of District Judge, Palwal. The applicant is seeking transfer of said divorce petition to a Court of competent jurisdiction at Gurugram.

According to her, she has filed a petition under Section 125 Cr.P.C. against the respondent which is pending in the Court at Gurugram. The applicant is a young woman having no source of income and it is difficult for her to travel from her parental place to Palwal, to attend the dates of hearing in Court there, covering a distance of about 60 kms on one side. Therefore the application be accepted.

Notice of the application was given to the respondent, who has put in appearance and is opposing the application vehemently, contending that there is good road connectivity between Palwal and Gurugram and the applicant can easily transverse that distance and there is no reason to transfer the case.

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 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, 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, Palwal, is withdrawn from that Court and transferred to the Family Court at Gurugram, for disposal in accordance with law. Parties through counsel are directed to appear there on 3.5.2019.

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

5.4.2019
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(H.S. Madaan)
Judge

Whether speaking / reasoned Yes / No

Whether reportable Yes / No