

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

TA-451-2018 (O&M)
Date of decision: 21.05.2019

Poonam

...Applicant

Versus

Rajesh

...Respondent

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

Present: Mr. Ranbir Singh, Legal Aid Counsel
for the applicant.

H.S. MADAAN, J. (Oral)

As per case of applicant Poonam, aged about 32 years, on account of matrimonial discord with her husband Rajesh, who is respondent in the application, she is residing separately from him. She is taking care of two minor sons of the parties, who are school going. She is dependent upon her parents for her financial needs and those of her minor sons. She has filed a petition under Section 125 Cr.P.C. against the respondent before District Judge, Family Court, Rohtak. She has also filed a complaint under Section 12 of Protection of Women from Domestic Violence Act, 2005 against the respondent in that very Court. As a pressure tactic, the respondent has filed a petition under Section 9 of the Hindu Marriage Act against her in the Court of Civil Judge (Sr. Divn.) Jind. The applicant being a young woman, taking care of two minor sons of the parties, it is difficult for her to travel from her parental place to

Jind to attend the dates of hearing in the Court there, covering a distance of about 70 kms on one side. Therefore, the present application be accepted.

Notice of the application was given to the respondent who was duly served through affixation but did not appear to offer a contest.

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 Civil Judge (Sr. Divn.), Jind and transferred to Family Court at Rohtak for disposal in accordance with law.

The parties through their counsel are directed to appear in the transferee Court on 22.07.2019. Copies of orders be sent to both the Courts for information and necessary compliance.

21.05.2019

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**(H.S. MADAAN)
JUDGE**

Whether speaking/reasoned :

Yes

No

Whether Reportable :

Yes

No