

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

TA-556-2018 (O&M)
Date of decision: 10.05.2019

Harpreet Kaur

...Applicant

Versus

Amritpal Singh

...Respondent

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

Present: Ms. D.S. Randhawa, Advocate for
Mr. B.S. Sewak, Advocate for the applicant.

Mr. Atul Kaushik, Advocate for the respondent.

H.S. MADAAN, J. (Oral)

This application for transfer of divorce petition has been filed by applicant Harpreet Kaur, aged about 37 years.

According to the applicant, she was married with respondent Amritpal Singh on 25.03.2007 at Ramgaria Bhawan, Phase-3B1, SAS Nagar, Mohali. Thereafter, the spouses residing together, however, differences arose between them on account of maltreatment of applicant by the respondent and his family members on account of demand of dowry. However, the couple was blessed with two daughters, namely, Simranjit Kaur and Harleen Kaur, born on 13.05.2009 and 04.10.2013 respectively. On account of maltreatment, harassment and torture by the respondent and his family members, the applicant had to leave the matrimonial home and start residing with her parents. She has filed a

petition under Section 125 Cr.P.C. against the respondent in Court at Mohali. She does not have any source of income and is taking care of two minor daughters of the parties. The respondent has filed a divorce petition against her in Court at Gurugram. Under the circumstances, it is difficult for the applicant to travel from her parental place to Gurugram to attend the dates of hearing in the Court there, covering a distance of about 285 kms on one side. Therefore, the present application for transfer to the Court of competent jurisdiction at SAS Nagar, Mohali be accepted.

Notice of the application was given to the respondent, who put in appearance. The application is being opposed vehemently.

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. Principal Judge, Family Court, Gurugram and transferred to the Court of learned District Judge, Mohali for disposal in accordance with law. Learned District Judge, Mohali may retain the petition on his board or assign it to any other Court of competent jurisdiction.

The parties through their counsel are directed to appear in the transferee Court on 31.05.2019. Copies of orders be sent to both the Courts for information and necessary compliance.

10.05.2019

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(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :

Yes No

Whether Reportable :

Yes No