

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

TA-564-2018 (O&M)
Date of decision: 23.05.2019

Jasbir Kaur

...Applicant

Versus

Gursewak Singh

...Respondent

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

Present: Mr. S.S. Antal, Advocate for the applicant.

Mr. N.L. Sammi, Advocate for the respondent.

H.S. MADAAN, J. (Oral)

Applicant Jasbir Kaur, aged about 29 years, estranged wife of respondent Gursewak Singh, presently residing with her parents at Village Lakhnaur Sahib, Tehsil & District Ambala, on account of matrimonial discord between the spouses, by way of filing the present application, seeks transfer of divorce petition filed by her husband, the respondent against her having title 'Gursewak Singh Vs. Jasbir Kaur' pending in the Court of Addl. District Judge, Family Court, SAS Nagar (Mohali) to the Court of competent jurisdiction at Ambala.

According to the applicant, the marriage solemnized between the parties on 02.02.2010 ran into rough weather, though, the couple was blessed with a son, namely, Harjot Singh, born on 20.12.2010; that the applicant was forced to leave the matrimonial home by the respondent and his family members, retaining the minor child with them. The applicant had no other place to go except the house of her parents at

Village Lakhnaur Sahib, Tehsil & District Ambala. She is suffering from a serious ailment and can take liquid and fluids only. Two cases between the parties are already pending in Courts at Ambala. Keeping in view her poor health and financial constraints, it is difficult for her to travel from her parental place to SAS Nagar (Mohali) 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 put in appearance through counsel and has filed written reply, contesting the application, submitting that the allegations in the application are wrong and no ground is made out to allow the application.

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, 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. District Judge, Family Court, SAS Nagar (Mohali) and transferred to Family Court at Ambala for disposal in accordance with law.

The parties through their counsel are directed to appear in the transferee Court on 24.07.2019. Copies of orders be sent to both the Courts for information and necessary compliance.

23.05.2019

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

Whether speaking/reasoned :

Yes No

Whether Reportable :

Yes No