

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

TA-568-2018 (O&M)
Date of decision: 10.07.2019

Rakhi

...Applicant

Versus

Mukesh Kumar

...Respondent

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

Present: Mr. S.K. Rana, Advocate for the applicant.

Mr. S.S. Sangwan, Advocate for the respondent.

H.S. MADAAN, J. (Oral)

Applicant Rakhi, aged about 40 years, estranged wife of respondent Mukesh Kumar, presently residing with her parents at Bahadurgarh, on account of matrimonial discord between the parties, by way of moving the present application, seeks transfer of divorce petition, filed by her husband, the respondent against her having title 'Mukesh Kumar Vs. Rakhi' pending in the Court of District Judge, Family Court, Bhiwani to the Court of District Judge, Jhajjar.

According to the applicant, the marriage solemnized between the spouses on 26.04.2007 ran into rough weather on account of demand of dowry from the applicant by the respondent. The couple was not blessed with any child. The applicant had to leave the matrimonial home and start residing with her parents at Bahadurgarh; that she is working as a school teacher posted at Bahadurgarh. It is difficult for the applicant to travel from Bahadurgarh to Bhiwani to attend the dates of hearing in the

Court there, covering a distance of about 100 kms on one side. The respondent has filed the divorce petition against her just to cause harassment to the applicant. Therefore, the present application be accepted.

Notice of the application was given to the respondent who put in appearance. The application is being opposed vehemently, praying that the same be dismissed.

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 District Judge, Family Court, Bhiwani and transferred to the Court of learned District Judge, Jhajjar for disposal in accordance with law. Learned District Judge, Jhajjar 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 09.08.2019. Copies of orders be sent to both the Courts for information and necessary compliance.

10.07.2019

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(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :

Yes

No

Whether Reportable :

Yes

No