

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

T.A. No. 608 of 2018

DATE OF DECISION :- March 19, 2019

Kuljeet Kaur

...Applicant

Versus

Avtar Singh

...Respondent

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

Present:- Mr. Ranjodh Singh Sidhu, Advocate for the applicant.

By way of filing the present application, applicant Kuljeet Kaur, aged about 32 years, estranged wife of Avtar Singh-respondent presently residing with her parents at Village Kazikot, Tehsil and District Tarn Taran, seeks transfer of petition under Section 9 of the Hindu Marriage Act, 1955 filed by her husband Avtar Singh against her having title 'Avtar Singh Vs. Kuljeet Kaur' pending in the Court of Civil Judge (Sr. Divn), Patiala to the Court of competent jurisdiction at Tarn Taran.

According to the applicant, the marriage between the parties was performed on 10.12.2011. Thereafter the spouses started residing together. The couple was blessed with a son. However, the applicant was treated with cruelty by the respondent and the applicant along with minor son of the parties was forced to leave her matrimonial home. She had no other place to go except house of her parents at Tarn Taran. She has filed a petition under Section 125 Cr.P.C. against the respondent in the Court at Tarn Taran. As a pressure tactic the respondent has filed petition under Section 9 of the Hindu Marriage Act against the applicant in the Court at Patiala. The applicant being a young

woman, taking care of minor son of the parties, having no source of income, it is difficult for her to travel from Tarn Taran to Patiala covering a distance of about 250 kms on one side so as to attend the dates of hearing in the Courts there, as such the application be accepted.

Notice of the application was given to the respondent, who as per office report has been duly served but he has not turned up 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 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 Civil Judge (Sr. Divn), Patiala and transferred to the Court of District Judge, Tarn Taran for disposal in accordance with law. Learned District Judge, Tarn Taran 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 23.4.2019. Copies of orders be sent to the Court of Civil Judge (Sr. Divn), Patiala as well as to the Court of District Judge, Tarn Taran for information and necessary compliance.

(H.S. MADAAN)
JUDGE

March 19, 2019

p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No