IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

TA No. 660 of 2018 (O&M)
Date of decision : 28.3.2019

...

Anoopam

.....Applicant

vs.

Mangal Sain

.....Respondent

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Applicant in person
Mr. Sandeep Punchhi, Advocate for the applicant

Respondent in person
Mr. Sunil K. Nehra, Advocate for the respondent.

...

H. S. Madaan, J.

Efforts for amicable settlement made, but those have not proved to be fruitful. Let the case proceed further on merits.

By way of filing the instant application, applicant – Anoopam aged about 33 years, estranged wife of Mangal Sain, presently residing with her parents at Sirsa, on account of differences between the parties, seeks transfer of divorce petition, filed by her husband, who is respondent in the present application, against her, having title 'Mangal Sain vs. Anoopam' pending in the Court of Principal Judge, Family Court, Rohtak, to any other Court of competent jurisdiction at Sirsa.

BANITA CHUGH
2019.03.29 17:01
I am the author of this
document

According to the applicant, marriage between the parties was solemnized on 5.8.2012, at Sirsa. Thereafter, they started residing together as husband and wife at Rohtak. The couple was blessed with two children, i.e. one daughter aged about 5 years and a minor son aged abut 3 years. That unfortunately, the marriage ran into rough weather on account of demand of dowry by the respondent and his family members. Resultantly, the applicant, alongwith the minor children of the parties was driven out of the matrimonial home and she had no other place to go except house of her parents at Sirsa, where she is putting up alongwith two minor children; that she is working as a teacher in a Government School at Sirsa; that she has filed a petition under Section 125 Cr.P.C. against the respondent, besides filing a complaint to the police under Section 498, 406 IPC; that the respondent has filed the divorce petition against the applicant as a pressure tactic. Under the circumstances, it is difficult for the applicant to go from Sirsa to Rohtak, to attend the dates of hearing in Court there, covering a distance of about 200 kms on one side. Therefore the application be accepted.

Notice of the application was given to the respondent, who has appeared through counsel.

The application is being opposed vehemently stating that no ground is made out for the transfer of the petition and that in case divorce petition is transferred to the Court at Sirsa, then the respondent may be put to physical harm by the applicant and her family members. Therefore, the application be dismissed.

I have heard learned counsel for the parties, besides going

BANITA CHUGH
2019.03.29 17:01
I am the author of this
document

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, I find that

BANITA CHUGH
2019.03.29 17:01
I am the author of this
document

ends of justice demand that the application be allowed.

Accordingly, the application is accepted. The petition in question pending in the court of Principal Judge, Family Court, Rohtak, is withdrawn from that Court and transferred to the Family Court at Sirsa, for disposal in accordance with law. Parties through counsel are directed to appear there on 26.4.2019.

As regards the apprehension of physical harm expressed by the respondent, it is directed that on respondent's approaching Superintendent of Police, Sirsa, by moving an appropriate application, then Superintendent of Police, Sirsa, shall take appropriate action in the matter and ensure that no physical harm is caused to the respondent when he goes to Sirsa, in connection with attending the dates of hearing in the Court there.

A copy of the order be sent to the Superintendent of Police, Sirsa and Courts concerned, for information and necessary compliance.

(H.S. Madaan)
Judge

28.03.2019
chugh

Whether speaking / reasoned Yes / No

Whether reportable Yes / No

BANITA CHUGH
2019.03.29 17:01
I am the author of this
document