

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

TA-662-2018 (O&M)
Date of decision: 05.07.2019

Rajwinder Kaur

...Applicant

Versus

Pushpinder Singh

...Respondent

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

Present: Mr. Gursharan Singh, Advocate for the applicant.

Mr. N.K. Vadhera, Advocate for the respondent.

H.S. MADAAN, J. (Oral)

Applicant Rajwinder Kaur, aged about 37 years, estranged wife of respondent Pushpinder Singh, presently residing with her parents at Village Ghurala, Tehsil & District Gurdaspur, on account of differences between the spouses, by way of moving the present application, seeks transfer of divorce petition along with application under Section 24 of the Hindu Marriage Act for maintenance, filed by her husband, the respondent against her having title 'Pushpinder Singh Vs. Rajwinder Kaur' pending in the Court of Addl. District Judge, Hoshiarpur to the Court of competent jurisdiction at Gurdaspur.

According to the applicant, she is not having any source of income and is dependent upon her parents for meeting her financial needs; that she has filed a petition under Section 125 Cr.P.C. against the respondent in Court at Gurdaspur. It is difficult for her to travel from Gurdaspur to Hoshiarpur to attend the dates of hearing in the Court there,

covering a distance of about 80 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 is opposing the application vehemently. It is contended on his behalf that earlier the matter had been compromised between the parties, in terms of which, they had agreed to get their marriage dissolved by way of decree of divorce by mutual consent. She has received a part of the settlement amount. Custody of the minor child was also handed over to the respondent but subsequently, she resiled, as such, she is not entitled for acceptance of the present application. It would be difficult for the respondent to go to Gurdaspur to attend the dates of hearing in the Court there, if the application is allowed. He has further submitted that the respondent is willing to pay the expenses for travelling of the applicant. In support of his contention, he has relied upon authority **Anindita Das Vs. Srijit Das**, 2006(9) SCC 197, whereas, learned counsel for the applicant has contended that though the parties had agreed to get their marriage dissolved, by way of decree of divorce by mutual consent and the applicant had received a part of the settled amount, handing over custody of the minor daughter to the respondent but subsequently, since, the respondent did not comply with all the terms & conditions agreed, applicant refused to give her consent to dissolution of marriage, by a decree of divorce under Section 13-B of the Hindu Marriage Act and she has returned the amount paid to her by the respondent. He has pointed out that respondent has not appeared in the

Court despite a specific direction issued by the Court in that respect and this fact be also taken into consideration while deciding the application.

After hearing learned counsel for the parties, I find that ends of justice demands that the application should be accepted. The conduct of the respondent in not putting in appearance in the Court despite a specific direction issued to him in that regard is something which cannot be appreciated.

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.

As far as authority referred to by learned counsel for the respondent is concerned, the same does not come to his help in view of different facts and circumstances of the present case.

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, Hoshiarpur and transferred to Family Court at Gurdaspur for disposal in accordance with law.

The parties through their counsel are directed to appear in the transferee Court on 06.08.2019. Copies of orders be sent to both the Courts for information and necessary compliance.

05.07.2019

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

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No