

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

TA No. 667 of 2018 (O&M)

Date of decision : 5.4.2019

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Harleen Kaur

.....Applicant

vs.

Loveleen Singh

.....Respondent

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

Present: Mr. Kunal Dawar, Advocate for the applicant.

Mr. J.S. Jaidka, Advocate for the respondent.

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H. S. Madaan, J. (Oral)

Briefly stated facts of the case, as can be gathered from the application in question, are that applicant Harleen Kaur was married with Loveleen Singh and thereafter they started residing together as husband and wife. The applicant gave birth to a son namely, Karandeep Singh and one daughter, namely, Gagandeep Kaur, from the loins of the respondent. Unfortunately the spouses could not pull on together and the applicant was compelled to leave the matrimonial home on 31.5.2018. She had no other place to go except house of her parents at Faridabad. Her husband – respondent has filed a divorce petition against her titled as “Loveleen Singh vs. Harleen Kaur”

pending in the Court of District Judge, Ludhiana. She seeks transfer of that petition to a Court of competent jurisdiction at Faridabad.

Notice of the application was given to the respondent, who has put in appearance and is opposing the application vehemently, praying for its dismissal.

Learned counsel for the respondent has stated that in application for pre-arrest bail filed by the respondent in FIR lodged by the present applicant, the matter has been referred to Mediation, whereas this fact is controverted by the applicant, who is present in Court in person.

I have heard learned counsel for the parties, besides going through the record.

According to the applicant, she has filed a petition under Section 125 Cr.P.C. before the Family Court at Faridabad, besides moving a petition under Section 12 of the Protection of Woman from Domestic Violence Act, in Court at Faridabad. She has lodged a complaint to the police also. She being a woman having financial constraints, taking care of the children of the parties, who are school going, it would be difficult for her to travel from her parental place to Ludhiana, covering a long distance. Therefore, the application be accepted.

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 ends of justice demand that the application be allowed.

Accordingly, the application is accepted. The petition in question pending in the court of District Judge, Ludhiana, is withdrawn from that Court and transferred to the Family Court, Faridabad, for disposal in accordance with law. Parties through counsel are directed to appear there on 3.5.2019.

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

5.4.2019
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(H.S. Madaan)
Judge

Whether speaking / reasoned	Yes / No
Whether reportable	Yes / No