

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

T.A. No. 683 of 2018

DATE OF DECISION :- March 14, 2019

Sakshi

...Applicant

Versus

Rakesh Sharma

...Respondent

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

Present:- Mr. Akshay Sandhir, Advocate for the applicant.

Mr. Munish Puri, Advocate for the respondent.

Applicant Sakshi is present in the Court.

On the last date of hearing it was directed that both the parties would appear in the Court along with minor child in their respective custody and respondent shall pay a sum of Rs.10,000/- to the applicant to cover miscellaneous and travelling expenses. The respondent has not turned up to put in appearance. Learned counsel for the respondent states that respondent has not given him a sum of Rs.10,000/- for payment to the applicant. Under such circumstances, let the case proceed further on merits.

By way of filing the present application, applicant Sakshi, aged about 27 years, estranged wife of Rakesh Sharma-respondent presently residing with her parents at Amritsar, seeks transfer of petition under Section 13 of the Hindu Marriage Act, 1955 filed by her husband Rakesh

Sharma against her having title 'Rakesh Sharma Vs. Sakshi' pending in the Court of District Judge (Family Court), Pathankot to the Court of competent jurisdiction at Amritsar.

According to the applicant, the marriage was solemnized between the parties on 4.12.2010. Thereafter they started residing together as husband and wife. The marriage was consummated and applicant gave birth to two children i.e. a daughter namely Kritika and a son namely Ishaan, presently aged about 5 years and 4 years. The applicant was treated with cruelty by the respondent and his family members in connection with demand of dowry. The respondent has illicit relation with a lady named Chetna. Situation was so created that applicant along with the minor son had to leave the matrimonial home and start residing with her parents at Amritsar. The applicant has filed petition under Section 125 Cr.P.C. for herself and on behalf of her minor son seeking maintenance. The respondent has filed divorce petition against her as a pressure tactic. 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 Amritsar to Pathankot covering a distance of 150 kms on one side, therefore, the application be accepted.

Notice of the application was given to the respondent, who has put in appearance through his counsel. The application is being opposed vehemently attacking the moral character of the applicant stating that she herself had left the matrimonial home after picking up quarrel with the respondent leaving minor daughter of the parties behind and no ground is made out for transfer of case.

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

I find that limited question is to be seen in this case is whether any justifiable reason is there for transferring of divorce petition or not and allegations levelled by the parties against each other are not to be gone into. The Apex Court in various judgments has observed in such type of matters that convenience of the wife is to be taken into consideration.

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), Pathankot and transferred to Family Court at Amritsar for disposal in accordance with law.

The parties through their counsel are directed to appear in the transferee Court on 25.4.2019. Copies of orders be sent to the Court of District Judge (Family Court), Pathankot as well as to the Family Court at Amritsar for information and necessary compliance.

(H.S. MADAN)
JUDGE

March 14, 2019

p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No