

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

TA No. 705 of 2018 (O&M)

Date of decision : 26.8.2019

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Rekha

.....Applicant

vs.

Babloo

.....Respondent

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

Present: Mr. Shubham Kaushik, Advocate for the applicant.

Mr. Ankur Sidhar, Advocate for

Mr. Rajesh Khandelwal, Advocate for the respondent.

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H. S. Madaan, J. (Oral)

CM 3972-CII-2019

This is an application for recalling the order dated 11.2.2019 passed by this Court, vide which the main application was dismissed for non-prosecution.

The application is being opposed on behalf of the respondent, but I find sufficient grounds to accept the same and recall the order dated 11.2.2019, as such the main application for transfer of the case stands restored at its original number.

Main case.

Applicant – Rekha, aged about 29 years, estranged wife of

Babloo, presently residing with her parents at Hisar, has filed the instant application under Section 24 CPC, seeking transfer of divorce petition, filed by her husband, who is respondent in the present application, against her, having title 'Babloo vs. Rekha' pending in the Court of Additional District Judge Kaithal, to a Court of competent jurisdiction at Hisar.

According to the applicant, the marriage solemnized between the parties on 24.6.2012, ran into rough weather and ultimately she was turned out of the matrimonial home. The applicant had no other place to go except the house of her parents at Hisar. She had lodged FIR No. 950 dated 6.8.2013, for offences under Section 498-A, 323, 506, 34 IPC, against the respondents. The respondent had earlier filed a petition under Section 9 of the Hindu Marriage Act, against the present applicant in Court at Kaithal, which was ultimately dismissed in default. The respondent and his family members have been convicted in the criminal case lodged by the applicant and their appeal against the same is pending in Court at Hisar. The applicant is a regular student of M.Sc. Applied Psychology in a college at Hisar. As a tool of harassment, the respondent has filed the divorce petition against the applicant in the Court at Kaithal. The applicant being a young woman, studying in a college at Hisar, having no source of income, it is difficult for her to travel from her parental place to Kaithal, to attend the dates of hearing in Court there, covering a distance of 110 kms on one side, spending nearly 3 hours in journey by bus. She has no place to stay at Kaithal, therefore, the application be accepted.

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

The application is being resisted by the respondent tooth and nail praying for its dismissal.

I have heard learned counsel for the parties, 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, 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 Additional District Judge, Kaithal, is withdrawn from that Court and transferred to the Family Court, Hisar, for disposal in accordance with law. Parties through counsel are directed to appear there on 30.9.2019.

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

26.8.2019
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(H.S. Madaan)
Judge

Whether speaking / reasoned Yes / No

Whether reportable Yes / No