

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

TA-719-2018 (O&M)

Smt. Perry Green Chauhan

...Applicant

Versus

Davis Gill

...Respondent

CRM-M-45263-2018 (O&M)

Davis Gill and others

...Petitioners

Versus

Parry

...Respondent

Date of decision: 10.07.2019

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

Present: Mr. S.D.S. Bali, Advocate for the applicant
in TA-719-2018 and for the respondent
in CRM-M-45263-2018.

Mr. A.K. Kalsy, Advocate
for the petitioners in CRM-M-45263-2018 and
for respondent in TA-719-2018.

H.S. MADAAN, J. (Oral)

This order of mine shall dispose of TA-719-2018 filed by applicant Smt. Perry Green Chauhan, aged about 28 years against her husband, seeking transfer of petition under Section 22 of the Special Marriage Act, titled 'Davis Gill Vs. Smt. Perry Green Chauhan', pending in the Court of Addl. District Judge, Ludhiana to the Court of competent jurisdiction at Ferozepur and CRM-M-45263-2018 filed by Davis Gill,

husband and his family members, seeking transfer of Complaint No.93 dated 24.08.2018, under Section 12 of Protection of Women from Domestic Violence Act, 2005, titled 'Parry Vs. Davis Gill and others', pending in the Court of CJM, Ferozepur to the Court of competent jurisdiction at Ludhiana.

According to the applicant, she was married with respondent on 07.01.2017 at Ferozepur according to Christian rites and ceremonies, however, the marriage ran into rough weather on account of demand of dowry by the respondent and his family members from the applicant. The couple was not blessed with any child. Under the circumstances, the applicant was forced to leave the matrimonial home and start residing with her parents at Ferozepur; that the respondent is residing in Canada. According to the applicant, she does not have any source of income and it is difficult for the applicant to travel from her parental place to Ludhiana to attend the dates of hearing in the Court there, covering a distance of about 130 kms on one side; that she has lodged an FIR against the respondent for offences under Sections 406 and 498-A IPC with police of Ferozepur. She has also filed a petition under provisions of Protection of Women from Domestic Violence Act, 2005 against the respondent in Court at Ferozepur. Therefore, the present application be accepted.

Notice of the application was given to the respondent who put in appearance and filed reply, stating that mother of respondent, who is his attorney is required to take care of father of respondent, who is her husband and who is suffering from various ailments, therefore, it would

be difficult for her to go to Ferozepur to appear in the Court in connection with the dates of hearing, in case, the present application is accepted. Rather, she had sought transfer of petition under Protection of Women from Domestic Violence Act, 2005 filed by the applicant against respondent and others, pending in Court at Ferozepur for that very reason.

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

Admittedly, as per case of the applicant, she does not have any source of income and is dependent upon her parents for meeting her needs. She being a young woman, having no source of income, it would indeed be difficult for her to travel from her parental place to Ludhiana to attend the dates of hearing in the Court there, covering a distance of about 130 kms on one side.

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.

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, Ludhiana and transferred to the Court of learned District Judge, Ferozepur for disposal in accordance with law. Learned District Judge, Ferozepur may retain the petition on his board or assign it to any other Court of competent jurisdiction.

The parties through counsel are directed to appear in the transferee Court on 09.08.2019. Copies of orders be sent to both the Courts for information and necessary compliance.

The respondent himself is residing in Canada. The Court is not to see convenience of his attorney. If attorney has got any problem in appearing in Court, he can appoint some other person as attorney and the

choice always remains with him to do so. As regards, the fact that cousin brother of applicant is a gangster and the respondent and his family members have a fear of physical harm at his hands, they can certainly report the matter to the police and get necessary action initiated against him. Therefore, no ground is there to transfer the case. Accordingly, petition bearing No. CRM-M-45263-2018 filed by husband and his family members is dismissed.

10.07.2019

sumit.k

(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :
Whether Reportable :

Yes	No
Yes	No