

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

TA-757-2018 (O&M)

Date of decision: 22.04.2019

Jyoti

...Applicant

Versus

Manish Kumar

...Respondent

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

Present: Mr. Dhruv Sihag, Advocate for the applicant.

Mr. C.S. Rana, Advocate for the respondent.

H.S. MADAAN, J. (Oral)

This application for transfer of divorce petition titled 'Manish Vs. Jyoti' pending in the Court of District Judge, Family Court, Sonipat to the Court of competent jurisdiction at Gurugram, has been filed by applicant Jyoti, aged about 22 years, estranged wife of respondent Manish Kumar, presently residing with her parents at Gurugram on account of differences between the spouses.

According to the applicant, the marriage solemnized between the parties did not work, though, the couple was blessed with a son. The respondent created such a situation that the applicant had to leave the matrimonial home and start residing with her parents at Gurugram. The applicant has filed a petition under Protection of Women from Domestic Violence Act, 2005 against the respondent, which is pending before JMJC, Gurugram. As a counter blast, the respondent has filed the petition

in question. The applicant does not have any source of income. She is looking after minor son of the parties, who was aged about 1 ½ years at the time of filing of application. It being so, it is difficult for her to travel from her parental place to Sonapat, 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, contesting the application vehemently and 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 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 District Judge, Family Court, Sonipat and transferred to Family Court at Gurugram for disposal in accordance with law.

The parties through their counsel are directed to appear in the transferee Court on 30.05.2019. Copies of orders be sent to both the Courts for information and necessary compliance.

22.04.2019

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

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