

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

T.A. No. 797 of 2018

DATE OF DECISION :- May 13, 2019

Yashmin Khanduja

...Applicant

Versus

Ravinder Kumar

...Respondent

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

Present:- Mr. M.K. Dhot, Advocate for the applicant.

Mr. Ravinder Kumar- respondent in person.

Applicant Yashmin Khanduja, aged about 29 years, wife of Ravinder Kumar-respondent, presently residing with her parents at Patiala on account of matrimonial discord between the spouses, by way of filing the instant application seeks transfer of petition under Sections 12 [1 (a)] and 13 (ia) (ib) and (iii) of the Hindu Marriage Act filed by her husband Ravinder Kumar against her having title 'Ravinder Kumar Vs. Yashmin Khanduja' pending in the Court of Additional District Judge, Family Court, Ambala to the Court of competent jurisdiction at Patiala.

According to the applicant, the marriage performed between the parties on 24.4.2016 at Patiala did not work. The couple was not blessed with any child. The circumstances were so created by the respondent that applicant had to leave the matrimonial home and start residing with her parents at Patiala; that she has filed a petition under Section 125 Cr.P.C. against the respondent which is pending in the Court of JMIC, Patiala. She has filed a complaint under Protection of Women from Domestic Violence Act, 2005

which is pending in the Court of ACJM Patiala. She has lodged an F.I.R. for offences under Sections 406, 498A IPC where proceedings are pending before JMIC Patiala. Just to harass the applicant, the respondent has filed a petition under Sections 12 [1 (a)] and 13 (ia) (ib) and (iii) of the Hindu Marriage Act against the applicant. The applicant does not have any source of income and there is no male member to accompany her to Ambala. It is difficult for her to travel from Patiala to Ambala covering a distance of 65 kms on one side so as to attend the dates of hearing in the Court there, therefore, the application be accepted.

Notice of the application was given to the respondent, who has put in appearance in the Court in person, vehemently opposing the application.

I have heard learned counsel for the applicant and respondent 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 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 Additional District Judge, Family Court, Ambala and transferred to Family Court at Patiala for disposal in accordance with law.

The parties through their counsel are directed to appear in the transferee Court on 31.5.2019. Copies of orders be sent to the Court of Additional District Judge, Family Court, Ambala as well as to the Family Court at Patiala for information and necessary compliance.

(H.S. MADAAN)
JUDGE

May 13, 2019

p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No