

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

TA-802-2018

Date of decision:-3.7.2019

Amandeep Dhot

...Applicant

Versus

Pardeep Kumar

...Respondent

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

Present : Applicant – Amandeep Dhot with
Mr.Aman Pal, Advocate.

Mr.D.K. Jangra, Advocate
for the respondent.

H.S. MADAAN, J.(ORAL)

Vide order dated 20.5.2019, both the parties were directed to appear in the Court along with minor children of the parties. However, the respondent has not turned up along with the minor child in his custody.

Learned counsel for the respondent has submitted that since respondent is sick, as such unable to appear in the Court. He has placed on file medical certificate by a private medical practitioner, which does not inspire much confidence. However, no necessity is felt to conduct a deeper probe in the matter and the application is being taken up for final disposal.

By way of filing the present application, the applicant – Smt.Amandeep Dhot, aged about 34 years estranged wife of respondent – Pardeep Kumar presently residing at Patiala on account of matrimonial discord between the spouses, seeks transfer of divorce petition filed by her husband the respondent against her having title 'Pardeep Kumar Versus Smt.Amandeep Dhot' pending before Addl. Principal Judge – cum – Addl.District Judge, Faridabad to any other Court of competent jurisdiction at Patiala.

According to the applicant, the marriage solemnized between the parties on 5.6.2009 at Patiala ran into rough weather; that the applicant had to leave the matrimonial home on account of harassment and cruelty meted out to her for the reason of demand of dowry raised by respondent and his family members; that the couple was blessed with a son namely Master Noyaan aged about 7 years at the time of filing the application and the said child is presently in custody of the respondent. Though in the application, it is pleaded that the applicant is not having any source of income, however during arguments learned counsel for the applicant submitted that she is working as a teacher in a school at Patiala and it is difficult for her to travel from Patiala to Faridabad covering a distance of about 300 kms. on one side to attend the dates of hearing in the Court there. He has further contended that minor son of the parties was earlier residing with the applicant but he was fraudulently taken away from the custody of the applicant on 10.6.2017 by the respondent when he came to Patiala to meet the son and this is so mentioned in the FIR No.13 dated 29.1.2019 for the offences under Sections 406 and 498-A IPC which was got registered by

the applicant against respondent with Police Station Women, District Patiala, copy of which is attached as Annexure A-3. Therefore, the application be accepted.

Notice of the application was given to respondent, who put in appearance and vehemently opposed the request for transfer of the petition praying for dismissal of the application. According to him he is taking care of minor son of the parties and applicant has made a wrong assertion in the application that she is unemployed and is not having any source of income. Therefore, she is not entitled to any relief and her application be dismissed.

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 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.

Therefore, the application stands allowed and the divorce petition pending in the Court of Addl. Principal Judge – cum – Addl.District Judge, Faridabad is ordered to be transferred to the District Judge, Family Court, Patiala. The parties are directed to appear before District Judge, Family Court, Patiala on 2.8.2019.

Copy of this order be sent to Addl. Principal Judge – cum – Addl.District Judge, Faridabad as well as District Judge, Family Court, Patiala for information and necessary compliance.

3.7.2019
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No