

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

T.A. No. 853 of 2018

DATE OF DECISION :- March 18, 2019

Meenakashi

...Applicant

Versus

Ajay

...Respondent

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

Present:- Mr. Robin Lohan, Advocate for the applicant.

Mr. Aminder Singh, Advocate for the respondent.

Applicant Meenakashi, aged about 23 years, wife of Ajay-respondent, presently residing with her parents at Village Hajampur, Tehsil Hansi, District Hisar on account of matrimonial discord between the spouses by way of filing the instant application seeks transfer of petition under Section 13 of the Hindu Marriage Act filed by her husband Ajay against her having title 'Ajay Vs. Meenakashi' pending in the Court of District Judge, Sangrur to the Court of District Judge, Hisar.

According to the applicant, the marriage was performed between the parties on 25.11.2013. Thereafter the spouses started residing together. The applicant gave birth to a male child from the loins of respondent namely Master Rashik. The respondent and his family members treated the applicant with cruelty with the result she had to leave the

matrimonial home along with the minor child and start residing with her parents at Village Hajampur, Tehsil Hansi, District Hisar. She has filed petition under Section 12 of Protection of Women from Domestic Violence Act, 2005 besides lodging F.I.R. under Section 498A IPC against the respondent. Both the cases are pending before JMIC Hansi. The respondent has filed divorce petition against the applicant as a pressure tactic. She being a young woman, taking care of minor son of the parties, having no source of income, it is difficult for her to travel from her parental place to Sangrur, covering a distance of 150 kms on one side, therefore, the application be accepted.

Notice of the application was given to the respondent, who has put in appearance through his counsel and is resisting the application 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, 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, Sangrur and transferred to Family Court at Hisar for disposal in accordance with law.

The parties through their counsel are directed to appear in the transferee Court on 29.4.2019. Copies of orders be sent to the Court of District Judge, Sangrur as well as to the Family Court at Hisar for information and necessary compliance.

As regards apprehension expressed by learned counsel for the respondent that the respondent and the persons accompanying him may be subjected to physical harm if the respondent goes to Hisar to attend the

dates of hearing in that respect, the Senior Superintendent of Police, Hisar is directed to ensure that no physical harm is caused to the respondent or to his family members or persons accompanying him when he/they go to Hisar to attend the dates of hearing. A copy of this order be sent to Senior Superintendent of Police, Hisar also.

(H.S. MADAAN)
JUDGE

March 18, 2019
p.singh

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