

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

TA No. 854 of 2018 (O&M)

Date of decision : 17.5.2019

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Parul Sobti

.....Applicant

vs.

Naresh Narula

.....Respondent

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. J.S. Bhinder, Advocate for the applicant.

Mr. Aayush Gupta, Advocate for the respondent.

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H. S. Madaan, J. (Oral)

According to applicant – Parul Sobti, aged about 27 years, estranged wife of respondent -Naresh Narula, presently residing with her parents at Patiala, she was married with respondent on 13.4.2017 at Patiala. Thereafter, the spouses started living together. However, on account of demand of dowry by respondent and his family members, from the applicant, the relations between the spouses became strained. The applicant was harassed and maltreated and ultimately forced to leave the matrimonial home. She came to reside with her parents at Patiala. She has filed a petition under Section 125 Cr.P.C. besides filing a complaint under Section 12 of the Protection of Women from Domestic Violence Act, 2005, against the respondent

in the Court of Chief Judicial Magistrate, Patiala, where respondent has put in appearance. However, he has not paid any maintenance to the applicant. As a pressure tactic the respondent has filed a petition under Section 9 of the Hindu Marriage Act, against her in the Court at Ludhiana. The applicant being a young woman, having no source of income, it is difficult for her to travel from Patiala to Ludhiana to attend the dates of hearing in Court there, by covering a distance of 100 kms on one side. As such the application be accepted.

Notice of the application was given to the respondent, who has put in appearance.

The parties were directed to appear in the Court and respondent was to pay a sum of Rs.10,000/- to the applicant to cover her travelling and misc. expenses. Today the applicant is present in person. However, neither respondent has turned up nor a sum of Rs.10,000/- paid to the applicant.

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, I find that ends of justice demand that the application be allowed.

Furthermore, respondent has not complied with the direction of the Court to appear in the Court and to pay a sum of Rs.10,000/- to the applicant. For that reason also adverse inference is to be drawn against him.

Accordingly, the application is accepted. The petition in question pending in the court of Civil Judge (Junior Division), Ludhiana, is withdrawn from that Court and transferred to the Family Court, Patiala, for disposal in accordance with law. Parties through counsel are directed to appear there on 18.7.2019.

A copy of the order be sent to the Courts concerned, for information and necessary compliance.

17.5.2019
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(H.S. Madaan)
Judge

Whether speaking / reasoned	Yes / No
Whether reportable	Yes / No