

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

TA-855-2018 (O&M)
Date of decision: 22.07.2019

Suman

...Applicant

Versus

Dinesh Kumar

...Respondent

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

Present: Mr. KDS Hooda, Advocate for the applicant.

Mr. Ajit Sihag, Advocate for the respondent.

H.S. MADAAN, J. (Oral)

This application for transfer of divorce petition, titled 'Dinesh Kumar Vs. Suman' pending in the Court of District Judge, Family Court, Bhiwani to the Court of competent jurisdiction at Hisar, has been filed by applicant Suman, aged about 30 years, estranged wife of respondent Dinesh Kumar, presently residing with her parents at Hisar, on account of differences between the parties.

According to the applicant, due to marital dispute between her and her husband, she along with minor son of the parties, who is presently aged little more than 07 years, had to leave the matrimonial home and start residing with her parents at Hisar. Her parents are old. She does not have any source of income and is dependent upon her parents for getting her financial requirements and those of her minor son met. The respondent has filed the petition in question against the applicant just to

harass her. Under the circumstances, it is difficult for the applicant to travel from her parental place to Bhiwani to attend the dates of hearing in the Court there, covering a distance of about 70 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 and is opposing the application vehemently, 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, Bhiwani and transferred to Family Court at Hisar for disposal in accordance with law.

The parties through counsel are directed to appear in the transferee Court on 23.08.2019. Copies of orders be sent to both the Courts for information and necessary compliance.

22.07.2019

sumit.k

(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :

Yes

No

Whether Reportable :

Yes

No