

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

1. TA-877-2018(O&M)

Jyoti @ Jiya

..... Applicant

Versus

Mohit Aneja

..... Respondent

2. CRM-M-43586-2018(O&M)

Jyoti @ Jiya

..... Applicant

Versus

State of Haryana and another

..... Respondents

Date of decision :-30.4.2019

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

Present : Mr.Gulshan Nandwani, Advocate
for the applicant.

Ms.Rupinder Kaur, Advocate
for respondent – Mohit Aneja.

Mr.Harkesh Kumar, AAG, Haryana in
CRM-M-43586-2018.

H.S. MADAAN, J.

Vide this order, I shall dispose of TA-877-2018 and CRM-M-43586-2018 filed by applicant Jyoti @ Jiya.

Applicant Jyoti @ Jiya, aged about 26 years estranged wife of

Mohit Aneja – respondent presently residing with her parents at Rewari, on account of differences between the spouses, has filed two applications, one TA-877-2018 for transfer of divorce petition filed by her husband – the respondent against her having title 'Mohit Aneja Versus Jyoti @ Jiya' pending in the Court of Additional District Judge, Sirsa and second CRM-M-43586-2018 for transfer of criminal case titled 'State of Haryana Versus Mohit Aneja etc.' bearing FIR No.415 dated 11.5.2018 for the offences under Sections 323, 34, 406, 498-A IPC, registered at Police Station City, District Sirsa, pending in the Court of Judicial Magistrate Ist Class – III, Sirsa, to the Court of competent jurisdiction at Rewari.

According to the applicant, marriage solemnized between the parties on 28.4.2017, did not work on account of demand of dowry raised by the respondent, which could not be fulfilled by applicant and her family; the respondent levelled allegations against moral character of the applicant; the applicant had to leave the matrimonial home and start residing with her parents; she has filed a petition under Section 125 Cr.P.C. in District Courts at Rewari, where respondent is appearing regularly. According to the applicant, she being a young woman having no source of income, it is difficult for her to travel from her parental place to Sirsa covering a distance of about 265 kms. on one side to attend the dates of hearing in the Courts there. Therefore, the applications be accepted.

Notices of the applications were given to respondents, who put in appearance and filed written replies and opposed the applications vehemently. Counsel for the respondent – Mohit Aneja opposed the

applications contending that the applicant has given her permanent address being that of Sirsa and she wants to get the cases transferred just to harass the respondent, who is doing a private job and it would be difficult for him to get leave from his employer quite often to attend the dates of hearing and spend considerable money in travelling. Furthermore, the respondent apprehends danger to his life at the hands of the applicant and his family members inasmuch as on 27.11.2018 when respondent had gone to Court Complex at Rewari to attend the date of hearing in petition under Section 125 Cr.P.C. filed by applicant against him and was present at Bus Stand, Rewari when hearing of the case was over, then two unknown boys came on motorcycle and assaulted the respondent causing him injuries regarding which he had informed the police. In that way, the respondent apprehends danger to his life, if the cases are transferred to the Courts at Rewari.

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 must 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 TA-877-2018 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, TA-877-2018 stands allowed and the divorce petition having title 'Mohit Aneja Versus Jyoti @ Jiya' pending in the Court of Additional Sessions Judge, Sirsa is ordered to be transferred to the Court of District Judge, Family Court, Rewari. The parties are directed to appear before District Judge, Family Court, Rewari on 28.5.2019.

However, to redress the apprehension expressed by respondent regarding possible physical harm to respondent on his going to Rewari in connection with attending dates of hearing, Superintendent of Police, Rewari is directed to ensure that no physical harm is caused to the

respondent or any other person accompanying him when he/they go to Rewari in connection with attending dates of hearing.

While passing this order, it has been kept in mind that in matrimonial litigation, the Courts do make efforts for reconciliation and amicable settlement where personal appearance of the spouses is required.

Whereas with regard to CRM-M-43586-2018 for transfer of criminal case, I find that though the applicant is complainant in that case but as has been stated by learned counsel for the respondent – Mohit Aneja and the State counsel the trial is going on. The complainant is required to go there only once to get her statement recorded and her personal appearance in the Court on each and every date is not required.

Thus, I do not see any reason to transfer the criminal case titled 'State of Haryana Versus Mohit Aneja etc.' bearing FIR No.415 dated 11.5.2018 for the offences under Sections 323, 34, 406, 498-A IPC, registered at Police Station City, District Sirsa pending in the Court of Judicial Magistrate Ist Class – III, Sirsa. Therefore, **CRM-M-43586-2018** stands dismissed.

Copy of this order be sent to District & Sessions Judge, Sirsa as well as District Judge, Family Court, Rewari and Superintendent of Police, Rewari for information and necessary compliance.

(H.S. MADAAN)
JUDGE

30.4.2019
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1. Whether reportable? **No**
2. Whether speaking / reasoned? **Yes**