

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

T.A. No. 887 of 2018

DATE OF DECISION :- March 18, 2019

Seema

...Applicant

Versus

Jitender Singh

...Respondent

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

Present:- Mr. S.K. Verma, Advocate for the applicant.

Mr. B.S. Bairagi, Advocate for the respondent.

Applicant Seema, aged about 20 years, estranged wife of Jitender Singh-respondent, presently residing with her parents at Village Lajwana Kalan, Tehsil Julana, District Jind on account of matrimonial discord between the spouses by way of filing the instant application seeks transfer of petition under Sections 11, 12 and 13 (1) (ia) of the Hindu Marriage Act filed by her husband Jitender Singh against her having title 'Jitender Singh Vs. Seema' pending in the Court of District Judge, Family Court, Rohtak to the Court of District Judge, Jind.

According to the applicant, the marriage performed between the parties on 19.2.2017 ran into rough weather due to demand of dowry by the respondent and his family members from her. The couple was not blessed with any child. The circumstances were so created by the respondent and his family member that the applicant had to leave the matrimonial home and start residing with her parents at Village Lajwana Kalan, Tehsil Julana, District Jind. The respondent has filed a divorce petition against the applicant as a pressure tactic. She being a young woman, having no source of income, it is difficult for her to

travel from her parental place to Rohtak, 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 by levelling allegations of applicant having extra marital relations. A prayer for dismissal of application has been made.

I have heard learned counsel for the parties besides going through the record.

In this application the allegations levelled by the parties against each other are not to be probed. The criteria for transfer of the case is quite different i.e. whether applicant-wife is having any source of income, whether she is illiterate or educated, the comparative inconvenience caused if the wife is made to go from her parental place to the place of sitting of the Court where such matrimonial dispute is pending etc.

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 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, Rohtak and transferred to Family Court at Jind 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, Family Court, Rohtak as well as to the Family Court at Jind for information and necessary compliance.

(H.S. MADAAN)
JUDGE

March 18, 2019

p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No