

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

T.A. No. 947 of 2018

DATE OF DECISION :- May 29, 2019

Parul Mittal

...Applicant

Versus

Bharat Bansal

...Respondent

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

Present:- Mr. A.S. Kaler Advocate for the applicant.

Mr. Pankaj Kundra, Advocate for the respondent.

Applicant Parul Mittal, aged about 29 years, estranged wife of Bharat Bansal-respondent, presently residing with her parents at Patiala 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 Bharat Bansal against her having title 'Bharat Bansal Vs. Parul Mittal' pending in the Court of Additional District Judge, Panchkula to the Court of competent jurisdiction at Patiala.

According to the applicant, the marriage solemnized between the parties on 21.10.2012 ran into rough weather though the couple was blessed with a daughter namely Kanvi Mittal. According to the applicant, she was harassed and maltreated by the respondent and his family members on account of demand of dowry and ultimately made to leave the

matrimonial home along with minor daughter of the parties and she had no other place to go except the house of her parents at Patiala. According to the applicant, the respondent has filed divorce petition against her in the Court at Panchkula just to cause trouble and inconvenience to her. Since she has no source of income and is looking after minor daughter of the parties aged about three years, her parents are old and ailing and there is no male member in the family to accompany her, it is difficult for her to travel from Patiala to Panchkula to attend the dates of hearing in the Court there. Further more she has filed a petition under Section 125 Cr.P.C. and one under various provisions of Protection of Women from Domestic Violence Act, 2005 in the Courts at Patiala, therefore, the application be accepted.

Notice of the application was given to the respondent, who has put in appearance through his counsel vehemently opposing the application.

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

As far as judgment referred by learned counsel for the respondent '**Krishna Veni Nagam, versus Harish Nagam 2017(2) R.C.R. (Civil) 358**' by the Apex Court in which guidelines in the matter of transfer of matrimonial and other cases had been laid, I find that keeping in view the facts and circumstances of the present case, balance of convenience is clearly tilted in favour of the applicant to transfer the divorce petition to the Court of competent jurisdiction at Patiala, therefore, judgment does not come to help the respondent.

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 Additional District Judge, Panchkula and transferred to Family Court at Patiala for disposal in accordance with law.

The parties through their counsel are directed to appear in the transferee Court on 24.7.2019. Copies of orders be sent to the Court of Additional District Judge, Panchkula as well as to the Family Court at Patiala for information and necessary compliance.

(H.S. MADAAN)
JUDGE

May 29, 2019
p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No