

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

TA No. 981 of 2018 (O&M)

Date of decision : 25.3.2019

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Muskaan @ Puneet @ Vandana

.....Applicant

vs.

Sandeep Kumar

.....Respondent

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

Present: Mr. Ram Kumar Saini, Advocate for the applicant.

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H. S. Madaan, J. (Oral)

This application for transfer of divorce petition titled as 'Sandeep Kumar vs. Muskaan @ Puneet @ Vandana', pending in the Court of District Judge (Family Court), Faridkot, to the Court of competent jurisdiction at Ambala, has been filed by applicant – Muskaan @ Puneet @ Vandana, aged about 28 years, presently residing with her parents at Ambala.

According to the applicant, marriage solemnized between the parties on 4.12.2011, ran into rough weather on account of demand of dowry by respondent and his family members. The couple was blessed with two children, i.e. one daughter, namely, Baby Nitika, born on 12.12.2012 and one son, namely, Master Paras, born on 25.11.2016. That situation was so created by respondent and his family members, that applicant alongwith two minor children of the parties had to leave the matrimonial home and start residing with

parents of the applicant at Ambala. The applicant has filed petition under Section 125 Cr.P.C. as well as an application under Sections 12 etc., of Protection of Women from Domestic Violence Act, 2005 against the respondent in Court at Ambala. The respondent has filed the petition in question against the applicant in order to pressurize her. The applicant being a young woman, having no source of income, taking care of two minor children of the parties, it is difficult for her to travel from Ambala to Faridkot, to attend the dates of hearing in Court there, covering a distance of 230 kms, on one side. Therefore the application be accepted.

Notice of the application was given to the respondent, who as per the office report, has been duly served but he has not appeared to offer a contest.

I have heard learned counsel for the applicant, 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.

Accordingly, the application is accepted. The petition in question pending in the court of District Judge (Family Court), Faridkot, is withdrawn from that Court and transferred to the Family Court at Ambala, for disposal in accordance with law. Parties through counsel are directed to appear there on 24.4.2019.

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

25.3.2019
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(H.S. Madaan)
Judge

Whether speaking / reasoned
Whether reportable

Yes/ No
Yes/ No