

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

T.A. No. 985 of 2018

DATE OF DECISION :- March 15, 2019

Sumanpreet Kaur alias Sumanpreet Kaur Sidhu

...Applicant

Versus

Kulwinder Singh Sandhu

...Respondent

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

Present:- Mr. Ashish Gupta, Advocate for the applicant.

Mr. Jasmail Singh Brar, Advocate for the respondent.

Applicant Sumanpreet Kaur alias Sumanpreet Kaur Sidhu, wife of Kulwinder Singh Sandhu-respondent, presently residing with her parents at Moga on account of matrimonial discord between the spouses, by way of filing the instant application seeks transfer of petition under Section 9 of the Hindu Marriage Act filed by her husband Kulwinder Singh Sandhu against her having title 'Kulwinder Singh Sandhu Vs. Sumanpreet Kaur' pending in the Court of Additional Civil Judge (Sr. Divn.), Muktsar to the Court of competent jurisdiction at Moga.

According to the applicant, the marriage was performed between the parties on 4.12.2015. Thereafter they started residing together as husband and wife at Muktsar. The marriage was consummated and the applicant gave birth to a male child namely Harsaihaj Singh on 27.9.2016. As per version of the applicant, the applicant was treated with cruelty by the respondent and his family members on account of demand of dowry. She had no other place to go except house of her parents at Moga where she is putting up along with her

minor son. She does not have any source of income. It is difficult for her to travel from her parental place to Sri Muktsar Sahib to attend the dates of hearing there, as such the application be accepted.

Notice of the application was given to the respondent, who put in appearance through his counsel and has submitted written reply contesting the application.

Learned counsel for the applicant has reiterated the assertions in the application whereas learned counsel for the respondent has contended that in para no. 7 of the application it is mentioned that father of the applicant is not keeping good health which is factually wrong since he has expired way back in the year 2015. Learned counsel for the applicant submits that it is so but on account of communication gap between him and his client it was so mentioned but according to him there are other grounds calling for transfer of the petition.

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 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 Civil Judge (Sr. Divn.), Muktsar and transferred to Family Court at Moga for disposal in accordance with law.

The parties through their counsel are directed to appear in the transferee Court on 26.4.2019. Copies of orders be sent to the Court of Additional Civil Judge (Sr. Divn.), Muktsar as well as to the Family Court at Moga for information and necessary compliance.

(H.S. MADAAN)
JUDGE

March 15, 2019

p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No