

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

TA-990-2018 (O&M)
Date of decision: 04.12.2019

Amarjit Kaur

...Applicant

Versus

Mohinder Singh Teji and another

...Respondents

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

Present: Mr. Nikhil K. Chopra, Advocate for the applicant.

Mr. Mohit Garg, Advocate for respondent No.1.

H.S. MADAAN, J. (Oral)

Applicant Amarjit Kaur, aged about 41 years, estranged wife of respondent No.1 Mohinder Singh Teji, presently residing with her parents at Village Sansarpur, Tehsil & District Jalandhar, on account of matrimonial discord between the spouses, by way of filing the present application, seeks transfer of divorce petition, filed by her husband, respondent No.1 against her having title 'Mohinder Singh Vs. Amarjit Kaur and another' pending in the Court of District Judge, Ludhiana to the Court of competent jurisdiction at Jalandhar.

According to the applicant, the marriage solemnized between the parties in the month of October 1995 did not work, though, the couple was blessed with three children i.e. daughters Gurpreet Kaur and Rubila and a son, namely Gurwinder Singh. On account of harassment and maltreatment meted out to the applicant at the hands of respondent in

connection with demand of more dowry, the applicant was forced to leave the matrimonial home and start residing with her parents along with minor children of the parties. The applicant does not have any source of income and is dependent upon her parents for meeting her financial needs and those of minor children of the parties; that respondent No.1 had filed a petition for divorce at Ludhiana and obtained ex parte decree on 02.04.1997. However, an application was filed by present applicant/wife for setting aside of that ex parte judgment and decree, which was dismissed by the trial Court, vide order dated 14.08.1997. That order was, however, challenged in the High Court and ex parte judgment and decree were set aside. Respondent No.1 had filed an appeal before the Apex Court, which was dismissed, vide judgment dated 12.01.2016. Respondent No.1 has again filed a divorce petition on false grounds, which is not maintainable, since the controversy has already been decided by the Hon'ble Supreme Court. The applicant has filed a petition under Section 125 Cr.P.C. besides a complaint under Sections 498-A, 494 etc. IPC against the respondent in Courts at Jalandhar. Under the circumstances, it is difficult for her to travel from her parental place to Ludhiana, to attend the dates of hearing in the Court there. Therefore, the present application be accepted.

Notice of the application was given to the respondent who put in appearance through counsel, filed written reply and is opposing the application vehemently, contending that the second divorce petition has been filed on the ground of adultery and respondent is suffering from

serious heart ailment, as such, unable to travel from Ludhiana to Jalandhar. He has drawn my attention to the supporting documents in that regard.

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 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 Ray** Versus **Ravibhai Govindbhai Ray**, 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.

Earlier also, on an application having been filed by wife, the divorce petition filed by the respondent as well as petition seeking custody of the children had been transferred by this Court to Courts of competent jurisdiction at Jalandhar. The first divorce petition filed by respondent/husband has since been dismissed. He has started a second round of litigation. The applicant is taking care of children of the parties. She is not shown to have enough resources at her command for going from Jalandhar to Ludhiana. She being a middle aged woman, it would be difficult for her to undertake the journeys quite often to attend the dates of hearing in Court at Ludhiana. The medical documents attached relates to the year 2007 and 2015. As has been stated by learned counsel for the applicant, he is appearing in two cases at Jalandhar, therefore, if we seen, comparative inconvenience is much more to the wife, if she is asked to go to Ludhiana quite frequently to attend the dates of hearing in a Court there, spending money from her pocket, more particularly, when she has got financial constraints and is looking after children of the parties, than the inconvenience caused to the respondent.

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, Ludhiana and transferred to Family Court at Jalandhar for disposal in accordance with law.

The parties through counsel are directed to appear in the transferee Court on 09.01.2020. Copies of orders be sent to both the Courts for information and necessary compliance.

04.12.2019

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(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No