

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

TA No. 997 of 2018 (O&M)

Date of decision : 2.5.2019

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Savita Panchal

.....Applicant

vs.

Kapil

.....Respondent

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

Present: Mr. M.R. Sharma, Advocate for the applicant.

Mr. Rakesh Nehra, Advocate for the respondent.

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H. S. Madaan, J. (Oral)

By way of moving the instant application, applicant Savita Panchal, aged about 36 years, estranged wife of Kapil, presently residing with her parents at Faridabad, on account of matrimonial discord between the spouses, seeks transfer of divorce petition filed by her husband, who is respondent in the present application, against her, having title 'Kapil vs. Savita Panchal', pending in the Court of Additional Principal Judge, Family Court, Rohtak, to a Court of competent jurisdiction at Faridabad.

According to the applicant, she got married with respondent on 7.2.2013, at Faridabad. Thereafter the spouses started residing

together. Both the parties were divorcee earlier and belong to different caste. The applicant had given birth to a male child from the loins of the respondent. According to the applicant she was tortured and maltreated by the respondent. The spouses had started residing separately. The respondent had filed a petition under Section 9 of the Hindu Marriage Act, to show that he wanted to keep the applicant. The applicant gave birth to a son of the parties on 7.12.2013. The respondent resumed cohabitation with her at Faridabad. Thereafter, the spouses again parted ways and the respondent has filed a divorce petition against her. According to the applicant, since she is taking care of minor son of the parties, who is now aged about 4 years and it is difficult for her to go to Rohtak to attend the dates of hearing in Court there, covering a distance of about 120 kms on one side and take frequent leaves from her office, as such the application be allowed.

Notice of the application was given to the respondent, who has put in appearance through counsel, vehemently contesting the application praying for its dismissal.

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 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 Additional Principal Judge, Family Court, Rohtak, is withdrawn from that Court and transferred to the Family court, Faridabad, for disposal in accordance with law. Parties through counsel are directed to appear there on 29.5.2019.

To address the concern of the respondent that he may be

subjected to physical harm by family members of the applicant, when he goes to Faridabad, in connection with attending dates of hearing, Commissioner of Police, Faridabad, is directed to take necessary steps to ensure that no physical harm is caused to the respondent or any of the persons accompanying him, to attend the dates of hearing in Court at Faridabad.

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

2.5.2019
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(H.S. Madaan)
Judge

Whether speaking / reasoned Yes / No

Whether reportable Yes / No