

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

TA-1954-2018 (O&M)
Date of decision: 04.04.2019

Rupy

...Applicant

Versus

Krishan Singh

...Respondent

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

Present: Mr. Ramandeep, Advocate for the applicant.

H.S. MADAAN, J. (Oral)

This application for transfer of petition under Section 9 of the Hindu Marriage Act titled 'Krishan Singh Vs. Rupy' pending in the Court of Addl. Civil Judge (Sr. Divn.), Sunam, District Sangrur to the Court of competent jurisdiction at Patiala, has been filed by applicant Rupy, aged about 21 years, wife of respondent Krishan Singh, presently residing with her parents at Village Jhandi, Tehsil & District Patiala, on account of matrimonial discord between the parties.

According to the applicant, the marriage solemnized between the parties about four years back before filing of the application, did not work. Although, things were normal for initial six months, thereafter, the respondent and his family members started harassing the applicant in connection with demand of dowry. The applicant came to know that respondent was addicted to liquor and other intoxicants. The respondent used to send his brother to the room of the applicant, so as to compel her

to have physical relations with him, which cause great mental agony and stress to the applicant. Ultimately, the applicant was turned out of the matrimonial home after giving severe beatings in the month of May, 2018. The applicant had no other place to go except to the house of her parents at Village Jhandi, Tehsil & District Patiala. Parents of the applicant had convened several panchayats to resolve the dispute between the spouses but to no effect. The applicant then moved a complaint to SSP, Patiala, however, no action has been taken thereon till date. On the other hand, just to save his skin, the respondent has filed a petition under Section 9 of the Hindu Marriage Act against the applicant. According to the applicant, the respondent has not paid any amount to her towards maintenance. As such, she was constrained to file a petition under Section 125 Cr.P.C., in the Court of JMIC, Patiala. She has also filed a petition under the provision of Protection of Women from Domestic Violence Act, 2005 in the Court of JMIC, Patiala. The applicant is a destitute lady and is not highly educated, therefore, she is not in a position to get any job. She does not have any source of income and is fully dependent upon her parents. Her parents are of old age and there is nobody to accompany her to go from her parental place to Sunam, which is approximately at the distance of 70 kms on one side to pursue the case in question. Therefore, the present application be accepted.

Notice of the application was given to the respondent, who was duly served but did not opt to appear and 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 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.

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 Addl. Civil Judge (Sr. Divn.), Sunam, District Sangrur and transferred to Family Court at Patiala for disposal in accordance with law.

The parties are directed to appear in the transferee Court on 02.05.2019. Copies of orders be sent to both the Courts for information and necessary compliance.

04.04.2019

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**(H.S. MADAAN)
JUDGE**

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