

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

T.A. No. 6977 of 2018

DATE OF DECISION :- March 15, 2019

Suman

...Applicant

Versus

Rakesh Kumar

...Respondent

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

Present:- Mr. Puneet Sharma, Advocate for the applicant.

By way of filing the present application, applicant Suman, aged about 43 years, estranged wife of Rakesh Kumar-respondent presently residing with her parents at Amritsar, seeks transfer of petition under Section 9 of the Hindu Marriage Act, 1955 filed by her husband Rakesh Kumar against her having title 'Rakesh Kumar Vs. Suman' pending in the Court of Additional Civil Judge (Sr. Divn.), Jalandhar to the Court of competent jurisdiction at Amritsar.

According to the applicant, the marriage performed between the parties did not work though the couple was blessed with two children i.e. khushi, presently aged about 16 years and Rohit, presently aged about 14 years; that respondent is having illicit relationship with one Indu Bala wife of Som Nath and when the applicant objected to that she was given severe beatings and ultimately she was turned out of the matrimonial home. She had no other place to go except house of her parents at Amritsar where she is putting up along with two children of the parties. Just to harass her, the respondent has filed divorce petition in question

against her. She being a young woman, taking care of two children of the parties, having no source of income, it is difficult for her to travel from Amritsar to Jalandhar to attend the dates of hearing in the Court there, covering a distance of about 80 kms on one side. Further more, she has filed a petition under Section 125 Cr.P.C. against the respondent. She has brought a complaint under Section 12 of the Protection of Women from Domestic Violence Act, 2005, both are pending in the Courts at Amritsar. She has also filed a complaint under Section 406, 498-A IPC in the Court of JMIC, Amritsar, as such, the application be accepted.

Notice of the application was given to the respondent, who as per office report has been duly served but he has not turned up 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 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.), Jalandhar and transferred to Family Court at Amritsar for disposal in accordance with law.

The applicant through her counsel is 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.), Jalandhar as well as to the Family Court at Amritsar for information and necessary compliance.

(H.S. MADAAN)
JUDGE

March 15, 2019

p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No