

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

TA-5-2019 (O&M)

Date of decision: 05.09.2019

Sarita Devi

...Applicant

Versus

Sat Narayan

...Respondent

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

Present: Mr. Amardeep Hooda, Advocate for the applicant.

Mr. T.K. Yadav, Advocate for the respondent.

H.S. MADAAN, J. (Oral)

Applicant Sarita Devi, aged about 33 years, estranged wife of respondent Sat Narayan, presently residing with her parents at Village Madina (Korsan), Tehsil Meham, District Rohtak, on account of matrimonial discord between the spouses, by way of filing the present application, seeks transfer of divorce petition, filed by her husband, the respondent against her having title 'Sat Narayan Vs. Sarita Devi' pending in the Court of District Judge, Jhajjar to the Court of competent jurisdiction at Rohtak.

According to the applicant, she got married with the respondent on 19.01.2003. Thereafter, they started residing together. The marriage was consummated. The couple was blessed with two children, namely Dev and Anshuman, born on 28.09.2004 and 22.09.2006 respectively. Unfortunately, the marriage ran into rough

weather with a result, the applicant along with minor son, namely Anshuman of the parties had to leave the matrimonial home and start residing with her parents at Village Madina (Korsan), Tehsil Meham, District Rohtak. She does not have any source of income and is dependent upon her parents for meeting her financial needs and those of minor son of the parties. She has filed a petition under Section 125 Cr.P.C. against the respondent at Rohtak where the respondent has been appearing. Another petition under provision of Protection of Women from Domestic Violence Act, 2005 filed by the applicant against the respondent is pending in Court at Meham. The applicant has also got lodged an FIR No.489/ 2017 against the respondent under Sections 323, 354-B, 506 and 34 IPC, which is also pending in Court at Meham. The respondent has filed the petition in question against the applicant just to harass her. The applicant being a young woman, having no source of income, taking care of minor son of the parties, it is difficult for her to travel from her parental place to Jhajjar, to attend the dates of hearing in the Court there, covering a distance of about 50 kms on one side. 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 respondent is serving in CRPF and is posted in Kashmir Valley; that he is taking care of one child of the parties. Therefore, it is difficult for him to appear in the Court at Rohtak, if the petition is transferred there. As such, the

application be dismissed.

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.

Since the respondent is admittedly serving in CRPF and posted at a distant place, the child in his custody is said to have been got admitted in a boarding school, therefore, no solid or concrete reason is there with the respondent to resist the application and to go from Jhajjar to Rohtak to attend the dates of hearing in a Court there.

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, Jhajjar and transferred to Family Court at Rohtak for disposal in accordance with law.

The parties through counsel are directed to appear in the transferee Court on 16.10.2019. Copies of orders be sent to both the Courts for information and necessary compliance.

05.09.2019

*sumit.k***(H.S. MADAN)
JUDGE**

Whether speaking/reasoned :

Yes

No

Whether Reportable :

Yes

No