

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

TA No. 2 of 2019 (O&M)

Date of decision : 26.8.2019

...

Swati

.....Applicant

vs.

Sandeep Kumar

.....Respondent

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

Present: Mr. Pankaj Kaushik, Advocate for the applicant.

Mr. Munish Behl, Advocate for the respondent.

...

H. S. Madaan, J. (Oral)

CM-15635-CII-2019

This is an application seeking permission to place on record written reply, filed by the respondent.

The application is allowed.

Reply be made part of the record.

Main case.

Applicant – Swati, aged about 30 years, was married with respondent Sandeep Kumar on 21.2.2007. Thereafter, the spouses started residing together. The marriage was consummated and they were blessed with a daughter on 6.8.2008. The marriage did not work properly due to which the applicant had to leave the matrimonial home and start residing separately in an independent house at Kurukshetra, alongwith her minor daughter. The respondent has filed

a divorce petition against the applicant, which is pending before District Judge, Family Court, Ambala. The applicant has filed the instant application under Section 24 CPC, seeking transfer of that divorce petition to a Court of competent jurisdiction at Kurukshetra.

According to the applicant, she being a young woman, having no source of income, with no male member in the family to accompany her on each and every date of hearing, it is difficult for her to travel from Kurukshetra to Ambala, to attend the dates of hearing in Court there. Therefore, the application be accepted.

Notice of the application was given to the respondent, who has appeared and filed written reply opposing the application vehemently, 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 District Judge, Family Court, Ambala, is withdrawn from that Court and transferred to Family Court, Kurukshetra, for disposal in accordance with law. Parties through counsel are directed to appear there on 30.9.2019.

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

26.8.2019
chugh

(H.S. Madaan)
Judge

Whether speaking / reasoned

Yes / No

Whether reportable

Yes / No