

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

T.A. No. 1136 of 2018

DATE OF DECISION :- March 20, 2019

Smt. Meeka

...Applicant

Versus

Manish

...Respondent

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

Present:- Mr. Ravi Malik, Advocate for the applicant.

Mr. Ajay Ghangas, Advocate for the respondent.

Applicant Smt. Meeka, aged about 30 years, estranged wife of Manish-respondent, presently residing with her parents at Village Pengaltu, Tehsil Hodal, District Palwal on account of matrimonial discord between the spouses, by way of filing the instant application seeks transfer of petition under Section 11 and 12 of the Hindu Marriage Act filed by her husband Manish against her, having title 'Manish Vs. Smt. Meeka' pending in the Court of District Judge, Family Court, Faridabad to the Court of competent jurisdiction at Palwal.

According to the applicant, the marriage between the parties performed on 18.4.2017 did not work, resultantly differences arose between the spouses. The applicant had to leave the matrimonial home and start residing with her parents at Village Pengaltu, Tehsil Hodal, District Palwal.

The applicant has lodged an F.I.R. No. 166 dated 20.4.2018 under Sections 323, 498-A, 506 IPC at Police Station Hodal besides filing a complaint under Section 12 of Protection of Women from Domestic Violence Act, 2005. That petition is pending in the Court at Hodal. As a pressure tactic, the respondent has filed a divorce petition against her. She is suffering from various ailments, as such it is difficult for her to travel from her parental place to Faridabad covering a distance of about 51 kms on one side so as to attend the dates of hearing in the Court there, as such the application be accepted.

Notice of the application was given to the respondent, who has put in appearance through his counsel and has filed written reply vehemently contesting the application contending that distance between Palwal and Faridabad is only 31 kms which the applicant can travel very easily and further more brother of applicant is a practicing lawyer at District Courts Palwal who may influence the proceedings if case is transferred to the Court at Palwal, therefore, the application being without merit be dismissed.

I have heard learned counsel for the parties besides going through the record.

A perusal of petition under Sections 11 and 12 read with Section 5 of Hindu Marriage Act, 1955 filed by the present respondent Manish against the present applicant Smt. Meeka copy of which has been placed on record as Annexure P2 (wrongly mentioned as divorce petition in the present application) goes to show that in para no. 3 it has been specifically mentioned that the fact of various ailments of the wife were

concealed from the husband and his family members. That means even as per own admission of respondent-husband, applicant is a patient of various ailments. As regards the distance between the two places, for a woman suffering from such type of ailments even if distance is taken to be 31 kms that is difficult to cover more particularly when as stated by learned counsel for the applicant, she is not having any source of income. With respect to objection raised by learned counsel for the respondent that brother of applicant is a practicing Advocate at Palwal, may it be so, however, he cannot possibly interfere in the judicial proceedings.

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, 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, Family Court, Faridabad and transferred to the Court of District Judge, Palwal for disposal in accordance with law. Learned District Judge, Palwal may retain the petition on his board or assign it to any other Court of competent jurisdiction.

The parties through their counsel are directed to appear in the transferee Court on 24.4.2019. Copies of orders be sent to the Court of District Judge, Family Court, Faridabad as well as to the Court of District Judge, Palwal for information and necessary compliance.

(H.S. MADAAN)
JUDGE

March 20, 2019

p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No