

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

T.A. No. 618 of 2018

DATE OF DECISION :- January 15, 2019

Ekta Sehgal

...Applicant

Versus

Aditya Sehgal

...Respondent

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

Present:- Mr. Ashish Aggarwal, Advocate for the applicant.

Mr. Rishabh Gupta, Advocate for the respondent.

By way of filing the present application, applicant Ekta Sehgal, aged about 28 years, wife of Aditya Sehgal-respondent, presently residing with her parents at Chheharta, District Amritsar on account of matrimonial discord between the parties is seeking transfer of petition under Section 13 of the Hindu Marriage Act, 1955 filed by her husband Aditya Sehgal against her having title 'Aditya Sehgal Vs. Ekta Sehgal' pending in the Court of Additional District Judge, Hoshiarpur to the Court of competent jurisdiction at Amritsar.

As per case of the applicant, after the marriage was solemnized between the parties on 24.9.2012 at Amritsar, the spouses started residing together. However, the attitude of respondent and his family members towards the applicant was not proper and they used to maltreat and harass her on account of demand of more dowry. Situation became so volatile that

applicant had to leave the matrimonial home and start residing with her old aged mother. The applicant does not have any source of income. She is taking care of minor daughter of the parties. It is difficult for her to travel from Chheharta to Hoshiarpur covering a distance of 110 kms on one side to attend the dates of hearing at Hoshiarpur. Further more respondent is a practicing Advocate at Hoshiarpur and applicant has got a bonafide apprehension that if she goes to Hoshiarpur alone to attend the dates of hearing, she would be physically harmed by the respondent, therefore, the application be accepted.

Notice of the application was given to the respondent, who has appeared through counsel and has filed written reply contesting the application.

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

It is contended that respondent is suffering from severe backache and he was operated for Lumbar-Sacral spine surgery at PGI, Chandigarh. He has been advised treatment with several instructions who has been found to be unfit for long travelling. A medical certificate issued by Rural Medical Officer, S.H.C., Sikri, Block-Bhunga, Hoshiarpur has been inclosed in that regard.

Learned counsel for the applicant submits that keeping in view the assertion in the application, the application should be allowed. The respondent is taking a false defence and the certificate placed on record by him is of doubtful authenticity which has been procured just to put up probable defence for opposing the application for transfer of the petition.

Whereas, learned counsel for the respondent has contended that it is not so. The medical certificate has been issued by a government doctor which is genuine.

After hearing the rival contentions, I find that no doubt under ordinary circumstances, the court should be sympathetic towards the wife while considering the matter regarding transfer of the case relating to a matrimonial dispute, however, in the instant case I find that on account of the physical disability of the respondent which is corroborated by the medical certificate placed on record issued by a government doctor which prima facie appears to be genuine, ends of justice demand that the case should not be transferred.

The application is disposed of declining the request for transfer of petition subject to the condition that the respondent shall pay a sum of Rs.2,000/- to the applicant for each date of hearing when she puts up appearance in the trial Court. In case of two successive defaults, the applicant shall have a right to approach this Court seeking revival of the application.

(H.S. MADAAN)
JUDGE

January 15, 2019

p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No