

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

TA-2958-2018 (O&M)
Date of decision: 22.04.2019

Sonia

...Applicant

Versus

Ashish Shukla

...Respondent

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

Present: Mr. Amit Dhawan, Advocate for the applicant.

Mr. Vaibhav Sehgal, Advocate for the respondent.

H.S. MADAAN, J. (Oral)

This application for transfer of divorce petition titled 'Ashish Shukla Vs. Sonia' pending in the Court of Addl. District Judge, Ludhiana to the Court of competent jurisdiction at Jalandhar, has been filed by applicant Sonia, aged about 25 years, estranged wife of respondent Ashish Shukla, presently residing with her parents at Jalandhar on account of a matrimonial discord between the spouses.

According to the applicant, the marriage performed between the parties on 24.06.2012 at Jalandhar did not work on account of demand of dowry raised by the respondent and his family members. Though the applicant had conceived, however, the pregnancy was forcibly got terminated by the respondent against the wishes of the applicant. The applicant was turned out of the matrimonial home and she had no other place to go except the house of her parents at Jalandhar. The

applicant has filed a petition under Section 125 Cr.P.C., for grant of maintenance in the Court of JMIC, Jalandhar. She has also filed a petition under Section 9 of the Hindu Marriage Act for restitution of conjugal rights against the respondent, which is pending before Civil Judge (Sr. Divn.) Jalandhar. As a counter blast, the respondent has filed the petition in question against her in Court at Ludhiana. The applicant being a young woman, having no source of income, it is difficult for her to travel from Jalandhar to Ludhiana, to attend the dates of hearing in the Court there, covering a distance of about 70 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 and filed written reply, contesting the application vehemently and submitting that no ground is made out for acceptance of the application and it be dismissed.

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

Learned counsel for the applicant has reiterated the pleas taken in the application, whereas, learned counsel for the respondent has contended that the applicant has suppressed the material facts from the Court and the proceedings in the divorce petition are at an advanced stage, wherein the applicant is participating and no reason is there to allow the application. As such, it be dismissed. In support of his contentions, he has referred to various judgments i.e. **Preeti Sharma Vs. Manjit Sharma, (2005) 11 SCC 535, Anindita Dass Vs. Srijit Das,**

(2006) 9 SCC 197 and judgments of this Court in case **Virpal Kaur Vs. Tarlochan Singh** in TA-336 of 2012, decided on 28.09.2012, **Lakshmi @ Preeti Vs. Sidharth Bhardwaj** in TA-599-2015, decided on 28.01.2016, **Navdeep Kaur Vs. Sandeep Singh** in TA-1000-2017, decided on 29.08.2018 and **Shivali Vs. Pankaj** in TA-717-2018, decided on 30.08.2018.

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.

After hearing learned counsel for the parties and perusing the record carefully, I find that the balance of convenience is clearly in favour of the applicant, considering the grounds put forward by her.

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 Addl. District Judge, Ludhiana and transferred to Family Court at Jalandhar for disposal in accordance with law.

As regards the judgments relied upon by learned counsel for the respondent discussed supra, those are not applicable due to different facts and circumstances as well as the context in which the observations had been made.

The parties through their counsel are directed to appear in the transferee Court on 30.05.2019. Copies of orders be sent to both the Courts for information and necessary compliance.

22.04.2019

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(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :
Whether Reportable :

Yes	No
Yes	No