

T.A. No. 934 of 2018 and
T.A. No. 941 of 2018

1

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

T.A. No. 934 of 2018
DATE OF DECISION :- March 13, 2019

Sheetal

...Applicant

Versus

Rajinder Kumar

...Respondent

T.A. No. 941 of 2018

Sheetal

...Applicant

Versus

Rajinder Kumar

...Respondent

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

Present:- Mr. R.P. Saini, Advocate for the applicant.

Mr. Naveen Kumar, Advocate for the respondent.

My this order shall dispose of two applications bearing T.A.
No. 934 of 2018 and T.A. No. 941 of 2008.

Applicant Sheetal, aged about 33 years, estranged wife of
Rajinder Kumar-respondent, presently residing with her parents at Amritsar
on account of matrimonial discord between the spouses, by way of filing the
instant application seeks transfer of petition under Section 9 of the Hindu

Marriage Act filed by her husband-respondent against her as well as petition under Section 25 of Guardians and Wards Act seeking custody of the minor children filed by respondent against the applicant pending in the Court of Civil Judge (Sr. Divn.), Batala to the Court(s) of competent jurisdiction at Amritsar.

According to the applicant, the marriage between the spouses ran into rough weather though the couple was blessed with two sons namely Master Saksham and Master Kavish, aged about 6 and 5 years at the time of filing of the application. The applicant has filed two petitions one under Section 12 of Protection of Women from Domestic Violence Act, 2005 at Amritsar and other being a divorce petition filed by applicant against the respondent. Both the cases are pending in the Courts at Amritsar. As a pressure tactic the respondent has filed two cases against the applicant in the Courts at Batala. The applicant being a young woman, having no source of income, taking care of two minor sons of the parties, it is difficult for her to travel from Amritsar to Batala to attend the dates of hearing in the Courts there, therefore, the application be accepted.

Notice of the applications were given to the respondent, who has appeared through counsel filing written replies contesting the applications. It is contended that the petition under Section 12 of Protection of Women from Domestic Violence Act, 2005 has since been dismissed by the Court and only the divorce petition filed by the applicant against the respondent is pending in the Court at Amritsar. It is further submitted that distance between Amritsar and Batala is about 39 Kms. Both the places are

well connected by road. The applicant can very easily come to Batala from Amritsar in connection with dates of hearing. Further more she is getting Rs.6,000/- per month as maintenance from the respondent and applicant is regularly coming to Batala as a agent under a scheme MPKY, therefore, the application be dismissed.

After hearing learned counsel for the parties and going through the record I find that comparative inconvenience to the applicant shall be much more if the applications are dismissed rather that if those are allowed. The Apex Court in number of judgments have observed that in case of matrimonial dispute between the spouses while considering the aspect of transfer of cases, the convenience of wife is a major consideration.

Keeping in view the fact that applicant is taking care of two minor children of the parties, having no source of income, it would be difficult for her to travel from Amritsar to Batala frequently in connection with attending dates of hearing there.

As regards learned counsel for the respondent that she has been coming to Batala in connection with her work, there is no documentary evidence available on the record to substantiate those contentions.

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 applications are accepted. The same are accordingly allowed. The petitions in question are ordered to be withdrawn from the Court of Civil Judge (Sr. Divn.), Batala and transferred to Family Court at Amritsar for

disposal in accordance with law.

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 Civil Judge (Sr. Divn.), Batala as well as to the Family Court at Amritsar for information and necessary compliance.

(H.S. MADAN)
JUDGE

March 13, 2019
p.singh

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No