

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

T.A. No. 1127 of 2018

DATE OF DECISION :- March 29, 2019

Nishi Mehta @ Nishi Sondhi

...Applicant

Versus

Sanjiv Kumar Mehta

...Respondent

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

Present:- Mr. Ajay Pal Singh Rehan, Advocate
for the applicant.

Mr. Harneet Singh Oberoi, Advocate
for the respondent.

H.S.MADAAN, J. :

By way of filing the present application, applicant Nishi Mehta @ Nishi Sondhi, aged about 39 years, estranged wife of Sanjiv Kumar Mehta-respondent presently residing with her parents at Talwara, Tehsil Mukerian, District Hoshiarpur, seeks transfer of petition under Section 13 of the Hindu Marriage Act, 1955 (for short, 'the Act') filed by her husband Sanjiv Kumar Mehta against her having title 'Sanjiv Kumar Mehta vs. Nishi Mehta' pending in the Court of Addl. District Judge, Patiala, to the Court of competent jurisdiction at Hoshiarpur.

According to the applicant, marriage solemnised between the parties on 07.12.2008 did not work on account of harassment and

maltreatment made out to the applicant by the respondent and his family members. However, the couple was blessed with two children namely Arshiya Mehta, born on 31.10.2009 and Akshaj Mehta, born on 24.05.2017. The circumstances were so created by the respondent and his family members that the applicant along with her two minor children had to leave the matrimonial home and start residing with her parents at Talwara, District Hoshiarpur. The applicant submits that on account of financial constraints and the applicant taking care of two minor children of the parties, it is difficult for her to travel from her parental place at Talwara to Patiala, covering a distance of 225 kms on one side so as to attend the dates of hearing in the Court there, therefore, the application be accepted.

Notice of the application was given to the respondent, who put in appearance through counsel.

The application is being opposed vehemently stating therein that no ground for allowing the same is made out, therefore the application be dismissed.

I have heard learned counsel for the applicant 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, 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, Patiala and transferred to the Family Court at Hoshiarpur for disposal in accordance with law.

The parties through their counsel are directed to appear in the transferee Court on 26.4.2019. Copies of orders be sent to the Court of

District Judge, Patiala as well as to the Family Court at Hoshiarpur for information and necessary compliance.

(H.S. MADAAN)
JUDGE

29.03.2019

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Whether speaking/reasoned
Whether reportable-

Yes/No.
Yes/No