

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****Date of decision: 24.02.2020****TA No.225 of 2020**

Sandeep Kaur

...Petitioner

Vs.

Karaj Singh

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Ms. Kaavya Jariyal, Advocate, for the petitioner.

RAJIV NARAIN RAINA, J. (ORAL)

1. I am told that the daughter, who is two years' old toddler, is in the custody of father/respondent and grand-mother at Tarn Taran. The husband has filed a divorce petition in Tarn Taran against the wife, who resides in Ludhiana after separation. She has applied to this Court by way of this petition to shift the trial of the case from the courts at Tarn Taran to Ludhiana which is obviously a forum convenient to her. But there is no indication in the petition as to the nature of work the husband does in Tarn Taran and whether his absences from Tarn Taran for attending dates of hearing in the Family Court at Ludhiana would sub-serve the purpose of his employment and to meet the daily chores of rearing his minor daughter in his parental home; to attend to his mother and other family matters. In this regard the husband carries heavier burden than the wife as things presently stand.

2. In view of the inadequacy of details of the human condition in which the parties find themselves, it may not appear right to put the husband to notice on this petition adding expenses of travelling to Chandigarh to defend this petition in the High Court and engaging counsel and then awaiting the outcome of this case, if process of the court is issued today, which, without doubt will be resisted by him, in case he appears. The better and practical course to adopt would be to request the Family Court at Tarn Taran to ensure that the husband pays in advance the reasonable costs which may be incurred by his wife in travelling from Ludhiana to Tarn Taran, Punjab in defending the divorce petition.

3. It is trite to say that every transfer petition inherently involves shifting of a case from a court of competent territorial jurisdiction to a court which may possess none of those characteristics but is foisted through Section 24 of the Code of Civil Procedure, 1908. Transfer of case from one district to another is not a routine matter or a jurisdiction to be exercised casually, sympathetically and generously. And much less on gender biases in a nation in which men and women are both equal.

4. Counsel has informed me that the wife has not yet filed an application under Section 24 of the Hindu Marriage Act, 1955 claiming interim maintenance or to the Guardianship Court claiming custody of her daughter which, if filed, would be decided in accordance with law.

5. The case is at the initial stage and the presence of the petitioner is not fundamentally required on each and every date of hearing, in case she is represented by a counsel. She would be required to attend only effective dates when the evidence is being recorded. On those dates, she would be

adequately compensated by the husband for travel expenses etc. In case, she is not represented by counsel, the Secretary, District Legal Services Authority, Tarn Taran will provide her the assistance of a competent counsel to look after her litigation interests in order to guard her rights.

6. With these observations and request to the Family Court at Tarn Taran and the Secretary, District Legal Services Authority, Tarn Taran, the present petition stands disposed of as no case for transfer *per se* inter-District has been made out to the satisfaction of the court.

24.02.2020
Vimal

[RAJIV NARAIN RAINA]
JUDGE

Whether speaking/reasoned:

Yes

Whether Reportable:

Yes