

**Sr. No.208
IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**TA No.299 of 2019 (O&M)
Date of Decision: 15.01.2020**

Nisha alias Manisha

... Applicant

Versus

Amarveer Yadav

... Respondent

CORAM:- HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. M.S. Randhawa, Advocate,
for the applicant.

Mr. V.K.Mahajan, Advocate,
for the respondent.

ARUN MONGA, J.(ORAL)

1. Applicant wife seeks transfer of petition filed by the respondent-husband under Section 9 of the Hindu Marriage Act, 1955 titled as “Amarveer Yadav Vs. Nisha alias Manisha” pending before the District Judge, Ludhiana to the Court of competent jurisdiction at Narnaul.

2. Learned counsel for the applicant submits that applicant has filed a complaint under Sections 11/12 of Domestic Violence Act against the respondent and his parents, which is pending adjudication at District Courts, Narnaul. He further submits that applicant has no source of income and is wholly dependent on her maternal uncle. The distance between Ludhiana and Narnaul is about 400 Kms. Therefore, it is difficult for her to attend the Court proceedings at Ludhiana.

3. On the other hand, learned counsel for the respondent

resisted the application on the ground that applicant is residing with her parents at Panthroli, Tehsil Buhana, District Jhunjhunu, Rajasthan. She has also made a complaint under Section 498-A, 406 and 423 IPC before Police Station Panchari Kallan, District Jhunjhunu, Rajasthan which is now pending before Judicial Magistrate Buhana, District Jhunjhunu, Rajasthan. He further submits that respondent is willing to save his marriage and even he has no source of income, and he has to look after his retired father who is suffering from cancer. In these circumstances, it would be difficult for him to attend court proceedings at Narnaul.

4. Learned counsel for the applicant also relies upon judgment of Hon'ble Apex Court in case titled ***Sumita Singh Vs. Kumar Sanjay and another, AIR 2002 SC 396***, wherein it is held that transfer of matrimonial proceedings initiated by the husband against wife, convenience of the wife ought to be looked into.

5. Learned counsel for the respondent relies on the judgment of Apex Court titled as ***Anindita Das Vs. Srijit Das, (2006) 9 SCC 197***, wherein it is held that leniency to ladies shown by Court in such transfer matters often misused and taken advantage of by women. So Court is now required to consider each petition on its merit.

6. I have heard learned counsel for the parties and have gone through the record.

7. The cardinal principle for exercise of the powers under Section 24 of the Code of Civil Procedure is the convenience and inconvenience of the parties. The paramount consideration for

exercise of the power must be to meet the ends of justice. The convenience of both the parties and not of the petitioner only is to be seen. The mere fact that the place of trial is 400 Kms away from the place of residence of the petitioner is not enough for exercise of the powers conferred by Section 24 of the Code of Civil Procedure.

8. Applicant seeks transfer of petition under Section 9 of Hindu Marriage Act filed by the respondent to Narnaul despite the fact that applicant has herself filed another case in District Jhunjhunu, Rajasthan.

9. Another aspect to be noticed is that the applicant fails to establish on record in any manner, entitling the matter to be transferred at Narnaul as neither the petitioner is resident of Narnaul nor she is working there.

10. In view of the discussion above, the transfer application is dismissed.

15.01.2020

vandana

**(ARUN MONGA)
JUDGE**

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No