

IN THE HIGH COURT OF PUNJAB AND HARAYANA AT CHANDIGARH
201(PROCEEDINGS THROUGH V.C.)

TA-340-2020

Date of decision: 07.10.2020

TARANPREET KAUR

...PETITIONER

V/S

NAVDEEP SINGH

..RESPONDENT

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Bhupinder Ghai, Advocate,
for the petitioner.

Mr. Mandeep K. Dhot, Advocate,
for the State.

AUGUSTINE GEORGE MASIH, J. (ORAL)

This petition has been preferred under Section 24 of the Civil Procedure Code for transferring the petition filed by the respondent-husband under Section 13 of the Hindu Marriage Act, 1955 seeking divorce from the petitioner-wife.

It is the contention of the learned counsel for the petitioner that the petitioner as well as the respondent are working as Associate Professor in Mata Gujri College, Fatehgarh Sahib. Merely because the husband of the petitioner i.e. respondent-Navdeep Singh is residing in Patiala, the divorce petition has been preferred there. It is asserted that apart from this petition for divorce, two petitions have been preferred by the petitioner, one under the Protection of Women from Domestic Violence Act, 2005, where a complaint has been filed and the other petition under Section 125 of the Code of Criminal Procedure for grant of maintenance allowance to the petitioner as well as their 12 years old child. These two petitions are pending in Fatehgarh Sahib.

Counsel for the petitioner further states that as the respondent is working as Associate Professor in Mata Gujri College, Fatehgarh Sahib, therefore, there would be no difficulty to attend the Court proceedings at Fatehgarh Sahib as far as the respondent is concerned. In the case of the petitioner, she would have to especially go to Patiala to attend the Court proceedings which would be difficult for her especially when she has a child who is residing with her. Prayer has, thus, been made for transfer of the petition filed under Section 13 of the Hindu Marriage Act for the dissolution of marriage by decree of divorce (Annexure P-1) in the Court at Fatehgarh Sahib.

On the other hand, learned counsel for the respondent asserts that the petition under Section 13 of the Hindu Marriage Act was preferred by the respondent prior to the filing of the petition under the Protection of Women from Domestic Violence Act, 2005 and the other petition under Section 125 of the Code of Criminal Procedure by the petitioner. The Court, therefore, at Patiala, where the petition has been filed earlier, would have the jurisdiction to entertain the same and it would be appropriate that the proceedings continue at such place. It has further been asserted that the relatives of the petitioner are residing in Patiala and there would be no difficulty as far as the petitioner is concerned as the distance between Patiala and Fatehgarh Sahib is hardly about 30-35 Kms. Prayer has, thus, been made for dismissal of the present petition. Counsel has also placed reliance upon a judgment passed by this Court in Anita Rani vs. D.C., 2017 (3) L.A.R. 146.

I have considered the submissions made by the learned counsel for the parties and with their assistance, have gone through the relevant

records as well as the judgment, on which reliance has been placed by the counsel for the respondent but am of the view that the present petition deserves to be allowed.

It is true that the petition under Section 13 of the Hindu Marriage Act was preferred by the respondent-husband at Patiala prior to the petition/complaint filed by the respondent under the Protection of Women from Domestic Violence Act, 2005 as well as under Section 125 of the Code of Criminal Procedure for maintenance but that does not, in itself, create a bar to transfer the petition under Section 13 of the Hindu Marriage Act. What is primarily required to be seen is the aspect which has been highlighted in various judgments of the Supreme Court i.e. the convenience of the parties. In the considered view of this Court, keeping in view the fact that both the petitioner as well as the respondent are working in the same college at Fatehgarh Sahib and the respondent is invariably on all working days going to Fatehgarh Sahib from Patiala to attend the college, it would be convenient for both the petitioner as well as the respondent in case the petition under Section 13 of the Hindu Marriage Act is transferred to the Court at Fatehgarh Sahib. Another aspect, which persuades this Court to pass such an order, is that the other two cases are also pending at Fatehgarh Sahib. It would be better if all these cases are at one place especially when there is no difficulty as far as the respondent is concerned as he is visiting Fatehgarh Sahib on each working day.

The judgment, on which reliance has been placed by the counsel for the respondent, would not be applicable to the facts and circumstances of the present case, as has been mentioned above, where it has been found to be convenient for both the petitioner as well as the

respondent if the case, which has been initiated at Patiala, is transferred to Fatehgarh Sahib. The circumstances in the present case are totally different from the one which were existing in Anita Rani's case (supra).

In view of the above, the present petition is allowed.

A direction is issued to the District Judge, Patiala, to transfer the petition under Section 13 of the Hindu Marriage Act for dissolution of marriage by decree of divorce titled as Navdeep Singh vs. Taranpreet Kaur (Annexure P-1) to District Judge, Fatehgarh Sahib before 10.01.2021 as it has been informed that the next date of hearing in the case is 12.01.2021 before the trial Court.

October 07, 2020

pj

**(AUGUSTINE GEORGE MASIH)
JUDGE**

Whether speaking/reasoned: Yes/No

Whether Reportable : Yes/No