

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

**CRM-M No.40825 of 2019
Date of Decision.05.03.2020**

Jasleen Kaur ...Petitioner

Vs
Davinder Singh Makkar and another ...Respondents

2. CRM-M No.40784 of 2019

Jasleen Kaur and another ...Petitioners

Vs
Davinder Singh Makkar and another ...Respondents

CORAM:HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. APS Sandhu, Advocate
for the petitioner(s).

Mr. S.S. Deol, Advocate
for the respondents.

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JAISHREE THAKUR J. (ORAL)

This order of mine shall dispose of two petitions, which arise out of same cause of action, whereby the petitioners herein seek transfer of two petitions as filed under the provisions of Protection of Women from Domestic Violence Act, 2005 (hereinafter called as DV Act) and under Section 125 Cr.P.C pending before the Judicial Magistrate 1st Class, Chandigarh to the Courts at Amritsar.. Facts are being enumerated from CRM-M No.40825 of 2019.

In brief the facts are that marriage was solemnized between the petitioner and respondent No.1 on 16.01.2005 at Amritsar as per Sikh rites and ceremonies, out of which wedlock, a minor child namely Ekamvir Singh was born. As the petitioner was harassed, she along with her minor child shifted to Chandigarh to pursue her studies. While living at

Chandigarh, the petitioner filed a petition under Section 12 of the DV Act as well as the petition under Section 125 Cr.P.C. claiming maintenance. After some time of filing of the said petitions, the petitioner herein returned back to Amritsar and on that basis prays that both the petitions be transferred to Court at Amritsar while stating that the said transfer would not cause any prejudice to the respondents since they are residents of Amritsar.

It is argued that petitioner No.2 in CRM-M No.40784 of 2019 is a minor and studying and residing at Amritsar, therefore, it would not be possible for him to travel to Chandigarh as that would affect his studies.

Per contra, Counsel for the respondents challenges the prayer made for transfer of the petitions on the ground that the petitioners herein voluntarily shifted to Chandigarh and filed two petitions here and therefore, having Chandigarh as jurisdiction could not ask for transfer of said petitions. It is argued that counsel has already been engaged at Chandigarh and it would cause great inconvenience to respondents herein to make alternate arrangements.

I have heard learned counsel for the parties and found that ground for opposing transfer of petitions to Amritsar is wholly unwarranted. This Court cannot lose sight of the fact that both parties are now residing at Amritsar and it would be convenient for all, in case both the petitions are heard there. Admittedly, the petitioner had filed a petition for divorce at Amritsar itself, which went uncontested. Thereafter she shifted to Chandigarh and got her son admitted at Chitkara International School, however, as per the School Leaving Certificate, the minor son is no longer

studying there as having left the school on 19.03.2019. As per Annexure P-5, the minor is now studying in Class 8 at Spring Dale Senior School, Amritsar and has also taken admission in computer classes at Amritsar itself. Just because two petitions were filed at Chandigarh while petitioners were residing there for education of the minor child, it cannot be said that the proceedings should continue at Chandigarh only. Petitioner No.1 is already claiming maintenance under Section 125 Cr.P.C for herself and the minor child (subject to evidence), which would mean that she is unable to support herself and has to bear the daily expenses for herself and the minor child. If proceedings are allowed to continue at Chandigarh, the petitioner herein and the minor child would be put to great inconvenience and monetary expenditure to come to Chandigarh on each hearing for pursuing matters whereas in case the transfer is allowed, no hardship would be caused to either of the parties. Mere plea taken that the respondents have already engaged counsel to pursue the matters at Chandigarh would not be of much significance in the background of the present case.

Consequently, both the petitions stand allowed and both the petitions are transferred from the Court at Chandigarh to the Court at Amritsar. The District & Sessions Judge, Chandigarh is directed to transfer both the petitions along with records to the Court at Amritsar. Parties are directed to appear before the Court at Amritsar on 01.04.2020.

(JAISHREE THAKUR)
JUDGE

March 05, 2020
Pankaj*

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No