

IN THE HIGH COURT OF PUNJAB AND HARYANA ATCHANDIGARH

TA-339-2020 (O&M)

Date of Decision: 10.02.2021

MEENAKSHI

..... PETITIONER(s)

Versus

GAURAV SHANKAR

..... RESPONDENT(s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Maninder Singh, Advocate
for the applicant.

None for the respondent.

LISA GILL, J.

This matter is being taken up for hearing through video conferencing due to the outbreak of pandemic, COVID-19.

Prayer in this application is for transfer of the petition filed by the respondent under Section 13 of the Hindu Marriage Act, titled 'Gaurav Shankar Vs. Meenakshi' case No.HMA/3516/2019, pending in the Court of Additional Principal Judge, Family Court, Ludhiana (Punjab), to the Court of competent jurisdiction at Panchkula (Haryana).

It is submitted that applicant was married with the respondent in February 2011. However, she was subjected to mental and physical cruelty. She had gone to her parental home when her father was seriously ill in the year 2015 but respondent did not permit her to return to the matrimonial home. Ultimately, the applicant filed a petition under Section 9 of the Hindu Marriage Act, 1955, in which respondent was proceeded ex-

parte and petition under Section 9 of the Hindu Marriage Act was decreed in favour of the applicant on 03.10.2017. She filed execution and respondent appeared after issuance of contional warrants and compromised the matter on 11.05.2018, just to wriggle out of the liability to deposit the maintenance amount which was due against him. Applicant was taken back to the matrimonial home in May 2018, after appropriate orders but she was again turned out of the matrimonial home in May 2019. Thereafter, petition under Section 13 of the Hindu Marriage Act has been filed by the respondent-husband. The petitioner, it is contended, has no independent source of income and is surviving totally at the mercy of her brother, who is working in a factory and has to take care of his own family as well. Therefore, it is virtually impossible for her to travel from Panchkula to Ludhiana to pursue the matter. It is thus prayed that this this application be allowed.

It is to be noted that respondent had not appeared before this Court despite being served. The matter was adjourned on 21.01.2021 for today in the interest of justice due to non-representation on behalf of the respondent while observing that in case he does not come forward, arguments may be advanced. Today again there is no representation on behalf of respondent and it is informed that none on behalf of respondent has joined the proceedings, which are being conducted through video conferencing. Accordingly, application is taken up for hearing.

I have heard learned counsel for the applicant.

There is nothing on record to rebut the specific averments on behalf of the applicant as noted above. Applicant-wife has no independent source of income and is dependant upon her brother, who himself is working

in a factory. It would indeed be difficult and cumbersome for the applicant to travel on her own from Panchkula to Ludhiana to pursue the petition under Section 13 of the Hindu Marriage Act. It is a settled position that generally it is the convenience of the wife, which is to be looked into while transferring such like matters. Reference can gainfully be made to decision of the Hon'ble Supreme Court in *Sumita Singh Vs. Kumar Sanjay*, AIR 2002 SC 396.

Accordingly, petition under Section 13 of the Hindu Marriage Act, titled 'Gaurav Shankar Vs. Meenakshi' case No.HMA/3516/2019, pending in the Court of Additional Principal Judge, Family Court, Ludhiana (Punjab) is transferred to the Court of competent jurisdiction at Panchkula (Haryana). Learned District Judge, Ludhiana is directed to send complete record of the abovesaid petition to the learned District Judge, Panchkula at an early date from the date of receipt of certified copy of this order. The learned District Judge, Panchkula is also directed either to decide the case himself or assign it to the learned Court of competent jurisdiction, in accordance with law.

With the abovesaid observations made and directions issued, present transfer application stands disposed of.

10.02.2021

Sunil

(LISA GILL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No