

TA-845-2021 (O&M)

Date of decision : 11.11.2021

Baljeet Kaur

.....Petitioner(s)

Versus

Shamsher Singh

.....Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. N.S. Dandiwal, Advocate for the petitioner.

Mr. Gursimran Singh Jossan, Advocate for the respondent.

ALKA SARIN, J. (ORAL)

The present petition has been filed under Section 24 of the Code of Civil Procedure, 1908 by the petitioner-wife seeking transfer of the petition i.e. DMC No.165 of 2021 titled as “Shamsher Singh Vs. Baljeet Kaur” filed by the respondent-husband under Section 9 of the Hindu Marriage Act, 1955 (for short the 'HM Act') pending in the Court of Principal Judge, Family Court, Ferozepur to the Court of competent jurisdiction at Moga.

Learned counsel for the petitioner would contend that the petitioner was married to the respondent on 22.08.2020 and is now residing with her parents at Fathegarh Panjtoor, District Moga and the distance from Fathegarh Panjtoor, District Moga to the Court at Ferozepur is about 140 Kms (up and down) and, hence, it is not possible for her to defend herself properly at Ferozepur. Learned counsel for the petitioner would further contend that the petitioner is working as a teacher in a private school and two cases initiated by her i.e. (i) a petition under Section 125 of the Code of Criminal Procedure, 1973 (CrPC); and (ii) a complaint under Sections 406,

498-A of the Indian Penal Code, 1860 at Police Station Fathegarh Panjtoor, are also pending at Moga.

Learned counsel for the respondent has vehemently opposed the transfer of the petition on the ground that the petitioner has made a false statement in the present petition that she is working as a private teacher inasmuch as in the petition filed by her under Section 125 CrPC she has stated that she is an illiterate woman. Learned counsel for the respondent would contend that the distance the petitioner has to travel between Fathegarh Panjtoor, District Moga and the Court at Ferozepur is hardly 55 Kms (one way) and it would not be difficult for her to travel. He would further contend that the cases filed by the petitioner are as a counterblast to the petition filed by the respondent-husband under Section 9 of the HM Act.

Heard learned counsel for the parties.

In the present case, the parties were married on 22.08.2020 which is just little more than a year ago. As per the averments in the present petition, the family of the respondent-husband started harassing the petitioner for bringing less dowry and also started ill-treating her. It has further been contended in the petition that they took her to a *Dera* of a *Tantrik (Baba)* and he also gave merciless beatings to her. It has further been averred that the petitioner was eventually thrown out of the house and she is now residing with her parents. The distance which the petitioner has to travel between Fathegarh Panjtoor, District Moga and the Court at Ferozepur on each date of hearing in order to defend the petition filed under Section 9 of the HM Act is 140Kms up and down. Two cases initiated by the petitioner i.e. (i) a petition under Section 125 CrPC; and (ii) a complaint under

Sections 406, 498-A of the Indian Penal Code, 1860, at Police Station Fathegarh Panjtoor, are also pending in District Moga. The argument raised by learned counsel for the respondent that the distance between Fathegarh Panjtoor, District Moga and the Court at Ferozepur is hardly 55 kms (one way) would work both ways inasmuch as that would be the distance the respondent would have to travel to the Court concerned at Moga. Further argument of learned counsel for the respondent that the petitioner has misstated the fact that she is working as a teacher is not an issue which needs to be gone into in the present case.

Keeping in view the totality of the circumstances as mentioned above, I deem this to be a fit case for transfer of the petition filed by the respondent-husband i.e. DMC No.165 of 2021 titled as “Shamsher Singh Vs. Baljeet Kaur” filed by the respondent-husband under Section 9 of the HM Act pending in the Court of Principal Judge, Family Court, Ferozepur to the Court of competent jurisdiction at Moga.

The records of the case shall be sent by the concerned Court at Ferozepur to the Court of the learned District Judge, Moga and the parties shall appear there on 07.12.2021 at 10.00 a.m.

It is however made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

The present petition is disposed off in the above terms.

11.11.2021
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO