

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

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IN VIRTUAL COURT

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TA No. 480 of 2020 (O & M)

Date of decision : 8.1.2021

Sunita

.....Applicant

Vs.

Tinku

.....Respondent

Coram: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Sumit Sangwan, Advocate, for the applicant

Mr. M.S. Chahal, Advocate, for the respondent

Rajbir Sehrawat, J. (Oral)

CM No. 125-CII of 2021 :

This is an application for placing on record the written statement on behalf of the respondent.

For the reasons mentioned in the application, the same is allowed.

Written statement, annexed with the application, is taken on record.

Main Case :

This application has been filed under Section 24 read with Section 151 CPC seeking transfer of the petition filed under Section 13 of the Hindu Marriage Act, 1955, bearing HMA No. 240 of 2020 titled as Tinku v. Sunita, which is pending before the Court of Principal Judge, Family Court, Jhajjar to the competent Court of jurisdiction at Charkhi-Dadri.

The case of the applicant/wife is that the respondent-husband has filed a petition for dissolution of marriage by way of decree of divorce against the present applicant/petitioner in the Court of Principal Judge, Family Court,

Jhajjar. The applicant is permanently residing in village Dhani Phogat, Tehsil and District Charkhi-Dadri along with her mother, who is a widow, after she was turned out of her matrimonial home. The applicant does not have any source of income. Hence, it is difficult for her to travel a distance of about 60 km. from her village to Courts at Jhajjar. There is no other male member in her family to accompany her to Jhajjar to attend the Court proceedings. It is further the case of the applicant that the marriage of the applicant with the respondent was solemnized on 9.12.2016 in village Dhani Phogat, Tehsil and District Charkhi-Dadri only. Another litigation filed at the instance of the present applicant/wife under Section 125 Cr.P.C. is already pending at the Courts at Charkhi-Dadri, and in any case, the respondent is supposed to attend the case at Charkhi-Dadri. Hence, the divorce petition pending at the Courts at Jhajjar be also transferred to the Courts at Charkhi-Dadri. It is also the case of the applicant that the Courts at Charkhi-Dadri are at equal distance from the residence of the applicant and that of the respondent. Therefore, no extra distance shall have to be travelled by the respondent/husband to attend the case at Charkhi Dadri.

On the other hand, the case of the respondent/husband, as argued by the counsel is that the applicant is harassing the respondent/husband by filing false cases. He apprehends that if he goes to attend the Courts at Charkhi Dadri, then he can be involved in another false case. The brother of the applicant/wife is serving in Police Department. Hence, the respondent apprehends his false implication at his instance. It is also submitted that the applicant is working as a lecturer in a private college. Therefore, there is no dearth of resources for the applicant as such. Hence, there is no necessity to

transfer the case from Jhajjar to Charkhi-Dadri.

In response to the above said submissions, the counsel for the applicant has reiterated that the applicant is not working anywhere; as of now. It is further submitted that brother of the applicant, who is stated to be in police department, is posted at Jhajjar only, and not at Charkhi-Dadri. Therefore, there is no possibility of false implication of the respondent/husband in any case at Charkhi Dadri, in case he attends the Court proceedings at Charkhi-Dadri.

Having heard learned counsel for the parties, this Court is of the view that since the parties are in litigation in a matrimonial dispute, therefore, it is the convenience of the applicant/wife, which is to be seen; unless there is any other factor excluding such consideration. The respondent/husband is already duty bound to attend the Court proceedings at Charkhi Dadri in another case. Therefore, otherwise also, it would be in the interest of justice that the cases between the parties are kept at one place. This view of the Court is also fortified by the undisputed fact that the Courts at Charkhi-Dadri are almost at the same distance from the respective residential places of the parties. None of them would be adversely affected if the divorce petition is transferred from Jhajjar to Charkhi-Dadri.

Although, counsel for the respondent has expressed apprehension qua false implication in a case because of the brother of the applicant being in police department, however, the very fact that the said brother of the applicant is posted at Jhajjar excludes any possibility, per se, of false implication of the respondent in case he attends the Court proceedings at Jhajjar. If the brother of the applicant is to get the respondent implicated in false case, it would be easier

for him to get the respondent implicated at Jhajjar; where the brother of the applicant/wife is stated to be posted in the police department. There is nothing on record to suggest, as a matter of fact, that the applicant herself is serving anywhere. Hence, this is also a factor in favour of the applicant that she does not have any source of income to repeatedly attend the Courts at Jhajjar.

Accordingly, the present petition is allowed. The divorce petition bearing HMA No. 240 of 2020 titled as Tinku v. Sunita, is ordered to be transferred from Jhajjar to Charkhi-Dadri. The District & Sessions Judge, Jhajjar is directed to ensure the transfer of the record of the case to the Courts at Bhiwani. The District & Sessions Judge, Bhiwani is directed to assign the case to the competent Court at Charkhi-Dadri, after receipt of the record of the same from the Courts at Jhajjar.

(RAJBIR SEHRAWAT)
JUDGE

8.1.2021

Ashwani

Speaking/Reasoned	:	Yes/No
Reportable	:	Yes/No