

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

TA-1059-2021 (O&M)

Date of decision : 07.12.2021

Shama

.....Petitioner(s)

Versus

Parminder Kumar

.....Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Ritesh Kumar, Advocate for
Mr. Manoj Kumar Sharma, Advocate for the petitioner.

Mr. Sudhir Paruthi, Advocate for the respondent.

ALKA SARIN, J. (ORAL)

Heard in physical mode.

Reply filed on behalf of the respondent in Court today is taken on record.

The present petition has been filed under Section 24 of the Code of Civil Procedure, 1908 seeking transfer of the petition i.e. HMA/151/2021 titled as “*Parminder Kumar Vs. Shama*” filed by the respondent-husband under Section 9 of the Hindu Marriage Act, 1955 (in short the 'HM Act') pending in the Court of Principal Judge, Family Court, Jalandhar to the Court of competent jurisdiction at Hoshiarpur.

Learned counsel for the petitioner would contend that the petitioner was married to the respondent on 28.01.2007 and out of the said wedlock two children were born. One daughter, namely, Harnoor, aged 13 years is residing with the petitioner-wife and one son, namely, Divanshu,

aged 9 years, is residing with the respondent-husband. The petitioner is now residing at Hoshiapur in her parental house and is looking after her minor daughter. The petitioner is stated to be having no independent source of income. The learned counsel would further contend that the petitioner in order to defend the case at Jalandhar would have to travel a distance of approximately 65 kms along with her minor daughter and it is not feasible for her, financially or otherwise, to travel to Jalandhar on each date of hearing.

Learned counsel for the petitioner would further contend that three cases initiated by the petitioner-wife being (i) a petition under Section 125 CrPC for grant of maintenance; (ii) a petition under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (in short the 'DV Act'); and (iii) a complaint under Section 406 and 498 of the Indian Penal Code, 1860 (IPC), are already pending in the Court concerned at Hoshiarpur.

Learned counsel for the respondent has vehemently opposed the transfer of the case on the ground that though the respondent is residing at Jalandhar, however, he is doing his business at Kapurthala and, hence, it would be difficult for him to travel a distance of approximately 90 kms in order to attend the proceedings at Hoshiarpur along with his minor son. However, learned counsel for the respondent is not in a position to deny that there are three cases already pending in the Court concerned at Hoshiarpur and that the distance the petitioner-wife would have to travel in order to defend the case at Jalandhar is about 65 kms (one way) on each date of hearing.

Learned counsel for the respondent would further contend that there is a chance of an amicable settlement between the parties and hence, prays that the matter may be referred to the Mediation and Conciliation Centre.

Heard learned counsel for the parties.

Keeping in mind the fact that the petitioner is now residing at Hoshiarpur along with her parents and is looking after her minor daughter and has no independent source of income as also the fact that the petitioner would have to travel a distance of approximately 130 kms (to and fro) to attend the proceedings at Jalandhar and that three cases being (i) a petition under Section 125 CrPC for grant of maintenance; (ii) a petition under Section 12 of the DV Act; and (iii) a complaint under Section 406 and 498 IPC, are already pending in the Court concerned at Hoshiarpur, I deem this to be a fit case for transfer of the petition i.e. HMA/151/2021 titled as ***“Parminder Kumar Vs. Shama”*** filed by the respondent-husband under Section 9 of the HM Act pending in the Court of Principal Judge, Family Court, Jalandhar to the Court of competent jurisdiction at Hoshiarpur. Ordered accordingly.

Since the learned counsel for the respondent has stated that there is a chance of an amicable settlement between the parties, the concerned Court at Hoshiarpur shall first refer the matter to Mediation before proceeding with the matter on merits.

The records of the case shall be sent by the concerned Court to the Court of the learned District Judge, Hoshiarpur and the parties shall appear there on 20.01.2022 at 10.00 a.m.

The present petition is disposed off in the above terms.

07.12.2021
Yogesh Sharma

(ALKA SARIN)
JUDGE

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