

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

TA No.19 of 2021 (O&M)
Date of decision: 08.09.2022

Ranjit Kaur and others

....Petitioners

Versus

Harjinderjit Singh

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. M.S. Uppal, Advocate
for the petitioners.

Mr. Prabhjot Singh, Advocate
for the respondent.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this petition is for transfer of the Civil Suit No.889 of 2020 titled as "Harinderjit Singh vs Ranjit Kaur and others", pending in the Court of Civil Judge (Jr. Division) Hoshiarpur to the competent Court of jurisdiction at Patiala.

Vide order dated 08.01.2021, the following order was passed:-

“Instant petition has been filed under Section 24 CPC seeking transfer of the case/suit bearing No. CS/889 of 2020 titled as Harinderjit Singh vs. Ranjit Kaur and others instituted by the respondent/husband and currently pending in the Court of Civil Judge, Junior Division, Hoshiarpur to a Court of competent jurisdiction at Patiala.

Counsel submits that marriage between the parties was solemnised on 19.04.2009 at Samana, District Patiala as per Sikh rites and ceremonies. Out of the wedlock one female child was born on 01.06.2011. On account of the matrimonial dispute the wife/petitioner is residing separately at her parental house at Patiala. Custody of the minor child is also with the petitioner. An application under Section 125 Cr.P.C. seeking maintenance has been

filed by the petitioner at the Court of competent jurisdiction at Patiala.

Counsel argues that it is only towards a counter blast that the suit in question seeking damages of Rs. 2 lakhs along with interest has been instituted at Hoshiarpur against the petitioner and her immediate family members i.e. father, brother and another close relative.

Notice of motion returnable for 25.02.2021.”

Counsel for the petitioner has argued that on account of a matrimonial discord, the petitioner has filed a petition under Section 125 Cr.P.C. and also got registered an FIR No.16 dated 19.01.2020 at Patiala.

Counsel for the petitioner has further submitted that the respondent/husband has filed the aforementioned civil suit, as a counter-blast, before the Court of Civil Judge (Jr. Division) Hoshiarpur.

Counsel for the petitioner has also argued that on account of a petition filed by the respondent/husband, the petitioner is facing great difficulty in prosecuting the said case as there is a distance of about 170 Kms from Patiala to Hoshiarpur.

Counsel for the petitioner has relied upon the judgments **“Sumita Singh vs Kumar Sanjay”, 2002 SC 396** and **“Rajani Kishor Pardeshi vs Kishor Babulal Pardeshi”, 2005(12) SCC 237**, wherein the Hon’ble Supreme Court has observed that *while deciding the transfer application, the Courts are required to give more weightage and consideration to the convenience of the female litigants and transfer of legal proceedings from one Court to another should ordinarily be allowed, taking into consideration their convenience and the Courts should desist from putting female litigants under undue hardships.”*

Counsel for the petitioner has also relied upon the judgment “*N.C.V. Aishwarya vs A.S. Saravana Karthik Sha*,” 2022 Live Law (SC) 627, wherein the Hon’ble Supreme Court has observed as under:-

9. The cardinal principle for exercise of power under section 24 of the Code of Civil Procedure is that the ends of justice should demand the transfer of the suit, appeal or other proceeding. In matrimonial matters, wherever Courts are called upon to consider the plea of transfer, the Courts have to take into consideration the economic soundness of both the parties, the social strata of the spouses and their behavioural pattern, their standard of life prior to the marriage and subsequent thereto and the circumstances of both the parties in eking out their livelihood and under whose protective umbrella they are seeking their sustenance to life. Given the prevailing socioeconomic paradigm in the Indian society, generally, it is the wife's convenience which must be looked at while considering transfer.

10. Further, when two or more proceedings are pending in different Courts between the same parties which raise common question of fact and law, and when the decisions in the cases are interdependent, it is desirable that they should be tried together by the same Judge so as to avoid multiplicity in trial of the same issues and conflict of decisions.”

It is well settled that while considering the transfer of a matrimonial dispute/case at the instance of the wife, the Court is to consider the family condition of the wife, the custody of the minor child, economic condition of the wife, her physical health and earning capacity of the husband and most important the convenience of the wife i.e. she cannot travel alone without assistance of a male member of her family, connectivity of the place to and fro from her place of residence as well as bearing of the litigation charges and travelling expenses.

Counsel for the respondent has, however, not disputed the

factual position but opposed the submissions made by counsel for the petitioner.

After hearing the counsel for the parties, considering the fact that the petitioner/wife will have to bear the litigation expenses and transportation expenses and in view of the judgments i.e. *Sumita Singh's case (supra)*, *Rajani Kishor Pardeshi's case (supra)* and *N.C.V. Aishwarya's case (supra)* passed by the Hon'ble Supreme Court, this Court deem it appropriate to allow the present petition, subject to the following conditions:-

1. *The Civil Suit No.889 of 2020 titled as "Harinderjit Singh vs Ranjit Kaur and others", pending before the Court of Civil Judge (Jr. Division) Hoshiarpur will be transferred to the competent Court of jurisdiction at Patiala.*
2. *The District Judge, Patiala, will assign the said petition to the competent Court of jurisdiction.*
3. *The Civil Judge (Jr. Division) Hoshiarpur is directed to transfer all the record pertaining to the aforesaid case to District Judge, Patiala.*
4. *The parties are directed to appear before the trial Court, Patiala, within a period of 01 month from today.*
5. *The Family Court, Patiala will make all endeavour to refer the case before the Mediation and Conciliation Centre for exploring the possibility of some amicable settlement between the parties.*
6. *The Court concerned, where the litigation pending between the parties, will accommodate them with one date in one calendar month.*

Disposed of.

(ARVIND SINGH SANGWAN)
JUDGE

08.09.2022

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Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No