

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

**Transfer Application No. 23 of 2022 (O & M)**

**Date of decision: 19.12.2022**

**Shruti Goyal**

.....Petitioner

**Vs**

**Varun Aggarwal**

.....Respondent

**CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Gurcharan Dass, Advocate  
for the petitioner.

Mr. Vidul Kapoor, Advocate  
for the respondent.

**NIDHI GUPTA, J.(Oral)**

1. Prayer in this petition filed by petitioner-wife is for transfer of the petition filed by respondent-husband under Section 13 of the Hindu Marriage Act, 1955 (for short 'the Act') titled "Varun Aggarwal Vs. Shruti Goyal" pending in the Court of Principal Judge, Family Court, Batala, District Gurdaspur to a Court of competent jurisdiction at Jagraon, District Ludhiana.

2. Learned counsel for the petitioner has contended :-

- i) That the parties were married on 12.4.2011 according to Hindu rites and rituals.

- ii) That two male children were born out of this wedlock, who are 10 years and 07 years of age and are in the care and custody of the respondent-husband.
  - iii) That the petitioner-wife is living separately from the respondent-husband since 26.2.2019 and living with her parents at their mercy at Jagraon, District Ludhiana.
  - iv) That the petitioner is unemployed, having no source of income and totally dependent upon her parents and the respondent-husband is not paying anything to her towards maintenance.
  - v) That the respondent-husband has filed the petition under Section 13 of the Hindu Marriage Act, which is pending before the Principal Judge, Family Court, Batala, District Gurdaspur.
  - vi) That the distance between place of residence of the petitioner-wife i.e. Jagraon, District Ludhiana and the place of proceedings under Section 13 of the Hindu Marriage Act, 1955 filed by the respondent-husband, pending before the Principal Judge, Family Court, Batala, District Gurdaspur, is about 170 kilometers on one side.
  - vii) That there is no proficient male member in the family of the petitioner, who can accompany her to the Court of proceedings at Batala, District Gurdaspur.
3. It is inter alia on these grounds that petitioner prays for transfer of the case, as detailed in para 1 above.
4. Upon notice, the respondent has put in appearance and vide order dated 08.08.2022 passed by Co-ordinate Bench of this Court, the matter was referred to the Mediation & Conciliation Centre at Camp Court Batala, District Gurdaspur. As per report received from the Additional Civil Judge (Sr. Divn.), Batala/Sub Divisional Judicial Magistrate. Batala, the mediation has failed.

By controverting the contents of the petition, the respondent has filed his reply taking the following pleas :-

- a) That the petitioner has not come to the Court with clean hands and suppressed the true and material facts from this Court as both the children are with their own consent and willingness residing with him and presently studying in Wood Blossom School Batala. The fee receipts with regard to that are annexed as Annexure R-1. Learned counsel for the respondent submits that the petitioner-wife at her own left the company of the respondent-husband and the children because since the date of separation i.e. 26.2.2019, she has not filed any case for taking the custody of the children.
- b) That the brother and father of the petitioner are practising Lawyers at District Bar, Ludhiana having criminal antecedents and therefore, the respondent has apprehension that in case the case is transferred to Ludhiana, the brother and father of the petitioner will surely make every possible attempt to harm the respondent and affect the case also. Learned counsel further submits that earlier also many times the brother and father of the petitioner extended threats to the respondent and the respondent has moved complaint dated 26.2.2019 (Annexure R/3) in this regard to the SHO, Police Station Batala.
- c) That not only this, the brother of the petitioner, namely, Gaurav Goel is also involved in an FIR with the allegations of kidnapping i.e. FIR No.205 dated 07.10.2021, under Sections 365 and 149 IPC, registered at Police Station City, Jagraon, District Ludhiana Rural (Annexure R/9). By referring the said FIR, learned counsel for the respondent

contends that there is every likelihood that in case the respondent attends the proceedings at the Court at District Ludhiana, there would be danger to his life.

- d) That as both the minor sons are living with the respondent and he is handling the responsibilities qua their education and well-being very well and on the other side the petitioner is having no liability of any kind and if the case is transferred to Ludhiana, it will adversely affect the study and future of the children also.

5. Learned counsel for the respondent in support of his contentions has relied upon the judgment of Hon'ble Supreme Court of India in ***Kulwinder Kaur @ Kulwinder Gurcharan Singh vs. Kandi Friends Education Trust and others*** 2008(1) RCR (Civil) 821 and the judgments passed by Co-ordinate Benches of this Court in ***TA-1114-2022*** case titled as '***Reeta Rani vs. Sandeep Kumar***', decided on 20.09.2022 as well as in ***TA-328-2022***, case titled as '***Rinky Rani vs. Daljit Kumar***', decided on 01.04.2022.

6. In rebuttal to the arguments of learned counsel for the respondent, learned counsel for the petitioner submits that so far as the question of brother of the petitioner is concerned, he is not residing with the petitioner and is residing at a different address as mentioned in the FIR (Annexure R/9) i.e. House No.3628, near Civil Hospital, City Jagraon, Ludhiana and the address of the father of petitioner is also different.

7. I have heard learned counsel for the parties.

8. After hearing learned counsel for the parties, I am of the view that the present petition deserves to be dismissed as it

is undisputed that there are two minor sons born out of this wedlock, who are living in the care and custody of the respondent-husband and he is maintaining both the minor children well. Further, the petitioner has also not filed any case about the custody of the minor children. In case the present case is transferred to the Court at Ludhiana, the respondent-husband will have to travel a distance of 170 kilometers one way to attend the proceedings, which will be a greater inconvenience upon the respondent considering he has the responsibility of the minor children and thus the overall care and studies of the children will adversely be affected. On the other hand, the petitioner is having no liability of any kind.

9. This Court is well aware of the preponderance of law in cases of transfer emanating from matrimonial disputes is in favour of the wife. However, in certain similar cases as the present one, the Hon'ble Supreme Court, as well as this Court have refused relief to the wife. One such case which may be referred to is: **(2006) 9 SCC 197 'Anindita Das Vs. Srijit Das'** wherein Hon'ble Supreme Court under similar circumstances dismissed the wife's application seeking transfer of petition filed by the husband. Reference in this regard may also be made to two cases of this Court where, in similar circumstances this Court had dismissed transfer applications filed on behalf of the wife. These are: **TA no. 126 of 2018 Smt. Akhwinder Kaur Vs. Sh. Gurpreet Singh;** and **TA No. 299 of 2019 Nisha alias Manisha vs. Amarveer Yadav.**

10. Accordingly, in view of the facts and circumstances of the

present case as noted above, as also the precedents of Case law as above, finding no merit in this petition, the same is hereby dismissed.

Pending application(s) if any stand disposed of.

**December 19, 2022**  
Vijay Asija

**( NIDHI GUPTA )**  
**JUDGE**

|                           |        |
|---------------------------|--------|
| Whether speaking/reasoned | YES/NO |
| Whether Reportable        | YES/NO |