

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

**TA No.35 of 2021 (O&M)
Date of decision: 28.07.2022**

Jasbir Kaur @ Jasvir Kaur

....Petitioner

Versus

Vinod Kumar

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. A.S. Sekhon, Advocate
for the petitioner.

None for the respondent.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this petition is for transfer of the petition filed under Section 13(i-a) of the Hindu Marriage Act, pending in the Family Court, Hisar to the competent Court of jurisdiction at Faridkot.

Vide order dated 15.01.2021, the following order was passed:-

“Instant application has been filed under Section 24 CPC seeking transfer of a divorce petition filed by the respondent/husband from the Court of Principal Judge, Family Court, Hisar to a Court of competent jurisdiction at Faridkot.

It is submitted that the distance between Hisar to Faridkot is 250 kms. Petitioner/wife has no source of income and as such is totally dependant on her parents with whom she is currently residing at Faridkot. Further submitted that an application under Section 9 of the Hindu Marriage Act for restitution of the conjugal rights, an application seeking maintenance under Section 125 Cr.P.C. as also an application under the Domestic

Violence Act at the hands of the petitioner/wife are pending at Faridkot itself. It is contended that under such situation, it is convenience of the lady/wife which ought to prevail.

Notice of motion, returnable for 15.03.2021.

Further proceedings in the divorce petition preferred by the respondent under Section 13 of the Hindu Marriage Act would be held in abeyance.”

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 a petition/complaint under the Domestic Violence Act at Faridkot.

Counsel for the petitioner has further submitted that the respondent/husband has filed the petition under Section 13(i-a) of the Hindu Marriage Act, as a counter-blast, before the Principal Judge, Family Court, Hisar.

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 250 Kms from Faridkot to Hisar.

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.”

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.

As per the office report, the respondent has been served, however, there is no representation on his behalf.

After hearing the counsel for the petitioner, 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)*** and ***Rajani Kishor Pardeshi’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 petition filed under Section 13(i-a) of the Hindu Marriage Act, pending before the Family Court, Hisar will be transferred to the competent Court of jurisdiction at Faridkot.*
- 2. The District Judge, Faridkot, will assign the said petition to the competent Court of jurisdiction.*
- 3. The Family Court, Hisar is directed to transfer all the record pertaining to the aforesaid case to District Judge, Faridkot.*

4. *The parties are directed to appear before the trial Court, Faridkot, within a period of 01 month from today.*

Disposed of.

(ARVIND SINGH SANGWAN)
JUDGE

28.07.2022

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No