

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

203

**TA No. 45 of 2022
Date of decision : 4.8.2022**

Rupinder Kaur

.....Petitioner

Vs.

Sahil Goyal

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Ashish Aggarwal, Advocate, for the petitioner.

Mr. Pushp Jain, Advocate, for the respondent

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for transfer of the petition filed under Section 13 of the Hindu Marriage Act seeking decree of divorce by the respondent-husband, pending before the Family Court, Sirsa to the competent Court of jurisdiction at Tarn Taran.

On 3.2.2022, the following order was passed by this Court :

“Applicant-wife has filed the present transfer application for seeking transfer of the petition filed under Section 13 of the Hindu Marriage Act, at the instance of respondent-husband, presently pending in the Family Court, Sirsa, to the Court of competent jurisdiction at Tarn Taran.

It is submitted by learned counsel for the applicant that applicant is the residence of Village Bakipur, Tehsil and District Tarn Taran. She has no source of earning and is solely dependent upon her parents. Her place of residence is at a distance of about 200 kms from Sirsa, where the divorce petition has been filed by the respondent is pending. Moreover, petition under Section 125 Cr.P.C. has already been decided by the Courts at Tarn Taran. However, the maintenance has not been paid by the the respondent. Even, complaint under Section 406, 498-A IPC is already pending at Tarn Taran.

Notice of motion for 24.03.2022.”

Learned counsel for the respondent submits that the parties have settled the dispute amicably and are in the process of filing petition under Section 13B of the Hindu Marriage Act.

Learned counsel 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 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.”*

Learned counsel has further relied upon **N.C.V. Aishwarya Vs. A.S. Saravana Karthik Sha, 2022 Live Law (SC) 627**, wherein the Hon'ble Supreme Court held as under: -

“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.

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 family condition of the wife, custody of the minor child, economic condition of the wife, her physical health and earning capacity of the husband and most important, 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 from her place of residence as well as bearing of the litigation charges and travelling expenses.

After hearing the counsel for the parties, considering the fact that the parties have settled the dispute amicably and are in the process of filing petition under Section 13B of the Hindu Marriage Act and in view of the judgments in **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 petition filed under Section 13 of the Hindu Marriage Act, pending before the Family Court, Sirsa will be transferred to the competent Court of jurisdiction at Tarn Taran.*
- 2. The District Judge, Tarn Taran will assign the said petition to the competent Court of jurisdiction.*
- 3. The Family Court, Sirsa is directed to transfer all the record pertaining to the aforesaid case to District Judge, Tarn Taran.*
- 4. The parties are directed to appear before the Family Court, Tarn Taran within a period of 01 month from today.*

Present petition is disposed of accordingly.

(ARVIND SINGH SANGWAN)
JUDGE

4.8.2022

Ashwani

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