

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

TA-51-2022 (O&M)
Date of decision: 27.07.2022

Aarti Devi @ Aarti

....Petitioner

Vs.

Rakesh Kumar @ Rinku

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Ramnish Puri, Advocate
for the petitioner.

None for the respondent.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for transfer of the petition filed by the respondent-husband under Section 13 of the Hindu Marriage Act, pending before the Family Court, Pathankot to the competent Court of jurisdiction at Amritsar.

While issuing notice of motion, following order was passed by this Court on 04.02.2022: -

“Applicant-wife has filed the 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, Pathankot, to the Court of competent jurisdiction at Amritsar.

It is submitted by learned counsel for the applicant that the applicant is living with her aged parents, and she is an unemployed person, having no source of earning. Moreover, an FIR No.70 dated 03.09.2021 under Sections 498-A and 406 IPC have been got registered, at her instance, at Amritsar. Even, the distance between Amritsar and Pathankot is about 115 kms. As such, it is difficult for her to pursue the litigation thrust upon her, at the instance of the respondent/husband...”

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.”*

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

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 fro from her place of residence as well as bearing of the litigation charges and travelling expenses.

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 in **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 of the Hindu Marriage Act, pending before the Family Court, Pathankot will be transferred to the competent Court of jurisdiction at Amritsar.*
- 2. The District Judge, Amritsar will assign the said petition to the competent Court of jurisdiction.*
- 3. The Family Court, Pathankot is directed to transfer all the record pertaining to the aforesaid case(s) to District Judge, Amritsar.*
- 4. The parties are directed to appear before the Family Court, Amritsar within a period of 01 month from today.*

Present petition is disposed of accordingly.

[ARVIND SINGH SANGWAN]
JUDGE

27.07.2022

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Whether speaking/reasoned : Yes/No

Whether reportable: Yes/No