

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

TA-50-2022 (O&M)
Date of decision: 26.07.2022

Amanjit Kaur

...Petitioner

Versus

Amandeep Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Siddharth Gupta, Advocate
for the petitioner.

None for the respondent.

ARVIND SINGH SANGWAN, J. (Oral)

On 04.02.2022, while issuing notice of motion, the following
order was passed:

“Applicant-wife has filed the transfer application for seeking transfer of the petition filed under Section 12 of the Hindu Marriage Act, at the instance of respondent-husband, presently pending in the Family Court, Faridkot, to the Court of competent jurisdiction at Bathinda. It is submitted by learned counsel for the applicant that the applicant is residing at her parental home at Bathinda, with her minor daughter aged about 6 years. She has also got lodged an FIR No.50 dated 31.12.2021 under Section 498-A, 506 IPC, and complaint under Section 12 of Protection of Women from Domestic Violence Act, 2005, against the respondent-husband, which are already pending at Bathinda. In these circumstances, it is difficult for her to pursue the litigation thrust upon her, at the instance of her husband.

Notice of motion for 04.04.2022.

Lower Court shall adjourn the matter beyond the

date fixed by this Court.”

Learned counsel for the petitioner has argued that on account of a matrimonial discord, the petitioner has filed the aforesaid FIR and a complaint under the Domestic Violence Act at Bathinda and as a counter-blast to the same, the respondent-husband has filed the present petition under Section 12 of the Hindu Marriage Act at Faridkot in order to harass the petitioner and the petitioner is facing great difficulty in prosecuting the said case, as there is a distance of about 70 kms between the aforesaid two places.

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, 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 if the aforesaid petition is not transferred, the petitioner-wife will have to bear the litigation expenses and transportation expenses and also in view of the ratio of law laid down by Hon'ble Supreme Court in **Sumita Singh's** case (supra) and **Rajani Kishor Pardeshi's** case (supra), this Court deems it appropriate to allow the present petition, with the following directions:-

- (i) *The petition filed under Section 12 of the Hindu Marriage Act, pending before the Family Court, Faridkot will be transferred to the competent Court of jurisdiction at Bathinda.*
- (ii) *The District Judge, Bathinda will assign the said petition to the competent Court of jurisdiction.*
- (iii) *The Family Court at Faridkot is directed to transfer all the record pertaining to the aforesaid case to District Judge, Bathinda.*
- (iv) *The parties are directed to appear before the trial Court at Bathinda within a period of 01 month from today.*

However, liberty is granted to the respondent-husband to revive this petition, if he intends to contest the same, provided that:-

- (i) *The respondent will clear all the arrears of maintenance amount, if any, in terms of the petition filed by the petitioner either under Section 125 C r.P.C. or Section 12 of the Domestic Violence Act or Section 24 of the Hindu Marriage Act.*
- (ii) *The respondent will file an affidavit giving undertaking to pay Rs.1,000/- per day, to the petitioner for attending the Court proceedings at*

Faridkot, on each and every date of hearing.

(iii) The respondent will bring a demand draft of Rs.25,000/- towards the litigation expenses of the petitioner to pursue the case at Faridkot, in case the respondent opts to contest this petition.

26.07.2022
Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No