

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

TA-95-2021 (O&M)
Date of decision: 18.07.2022

Kanchan Ojha and others

...Petitioners

Versus

Uma C Sekar

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Sandeep Kotal, Advocate
for the petitioners.

None for the respondent, despite service.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for transfer of the petition filed by the respondent, who is mother-in-law of the petitioner, under Section 12 of the Protection of Women from Domestic Violence Act, titled as ***Uma C Sekar vs. Sridhar Chandrasekar***, pending before JMIC, Faridabad to the competent Court of jurisdiction at Hisar.

Learned counsel for the petitioners submits that in fact the petitioner-wife is residing at Hisar and she has already instituted a petition under Section 125 Cr.P.C. as well as she has got registered an FIR under Section 498A and 406 IPC at Hisar, which are pending. It is further submitted that in order to harass the petitioners, the present petition has been filed by the mother-in-law of the petitioner at Faridabad. It is further submitted that the petitioner-wife is facing great difficulty in prosecuting the said case, as there is a distance of about 215 kms between Faridabad and Hisar.

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 her 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 Protection of Women from Domestic Violence*

Act, pending before the JMIC, Faridabad will be transferred to the competent Court of jurisdiction at Hisar.

- (ii) The District Judge, Hisar will assign the said petition to the competent Court of jurisdiction.*
- (iii) The JMIC, Faridabad is directed to transfer all the record pertaining to the aforesaid case to District Judge, Hisar.*
- (iv) The parties are directed to appear before the trial Court at Hisar within a period of 01 month from today.*

18.07.2022

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**(ARVIND SINGH SANGWAN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No