

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

**TA No. 89 of 2021 (O&M)
Date of decision: 14.07.2022**

Mamta

...Petitioner

Versus

Vikram Kumar and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Inder Singh, Advocate
for the petitioner.

Mr. Mohit Bishnoi, Advocate
for respondent No. 1.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for transfer of the petition filed by the respondent-husband under Section 9 of the Hindu Marriage Act, 1955, titled as ***Vikram Kumar vs. Mamta and another***, pending in the Court of the Principal Judge, Family Court, Fatehabad to the competent Court of jurisdiction at Hisar.

Learned counsel for the petitioner submits that the petitioner is residing at Hisar and she is having two daughters, who are living in her care and custody and she is facing difficulty to defend the case as she has to travel from Hisar to Fatehabad.

Learned 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. at Hisar and the same is pending. It is further submitted that as a counter-blast to the petition filed by the petitioner-wife, the respondent-husband has filed the present petition under Section 9 of the Hindu Marriage Act at Fatehabad and the petitioner is facing great difficulty in

prosecuting the said case, as there is a distance of about 60 kms between Fatehabad 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.”*

Learned counsel for the respondent-husband has opposed the prayer of the petitioner-wife.

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 parties, 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 9 of the Hindu Marriage Act, pending before the Principal Judge, Family Court, Fatehabad 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 Family Court at Fatehabad 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.*

14.07.2022

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No