

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

TA 76 of 2022 (O&M)
Date of Decision: April 27, 2022

Nisha Garg ...Applicant
Versus
Satish Kumar ... Respondent

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present : Mr. Harsh Goyal, Advocate
for the applicant.

Ms. Sonia G. Singh Samber, Advocate
for the respondent.

FATEH DEEP SINGH, J. (Oral)

Through this invocation applicant Nisha Garg has sought transfer of petition under Section 9 of the Hindu Marriage Act 1995 for restitution of conjugal rights filed by the husband titled as “Satish Kumar Vs. Nisha Garg” (Case No. **DMC/153/2021**) pending in the Court of Principal Judge, Family Court, Patiala, Camp Court, Nabha to a competent Court at

Malerkotla.

The primary reasons of the wife is that she has been threatened by the husband a number of times besides that she has a small child to look-after together with the relative distance of 35 kms between Nabha and Malerkotla and it is difficult for her to contest the petition.

The husband in his response has denied the averments and termed the present petition to be a counter blast of his claim of restitution conjugal rights besides filing petition under Section 11, 12 read with Section 5 of the Hindu Marriage Act subsequent thereto

The marriage of the applicant was earlier solemnized with one Munish Mittal, out of which, the couple has a minor son and it is consequent upon death of Munish Mittal in November 2020, the family of the applicant proposed and a marriage was arranged between the applicant and the present husband Satish Kumar who earlier was married with one Bindia Rani from which he has secured divorce on 01.05.2018. The

wife claims that the factum of another earlier marriage of Satish Kumar with one Preeti after his divorce from Bindia was concealed from her and alleges that no divorce has come about between the respondent and Preeti which is still subsisting.

It is in the background of this the husband has filed petition under Section 9 of the Act (Annexure A-1) and on the other hand the wife filed another petition under Section 11, 12 read with 5 of HMA (A-2) and had threatened over the acts of the respondent has sought transfer of the petition from Nabha to Malerkotla.

Heard learned counsel for the parties and perused the records.

Admittedly, the distance between to places i.e. Nabha and Malerkotla is 30 kms both connected with a well connected metalled road and, therefore, distance could be easily covered in a span of almost 30 minutes not much of distance in this fast moving world with all conveyance at hand.

What one can decipher is that because of

matrimonial disarray between the couple they are bent upon instituting every conceivable litigation that comes handy to them and, thus, in the process the present petition is one of the weapons in the armoury. The petition is nothing but merely to satisfy the sadistic pleasure being derived out of tormenting the other side. Moreover, the provisions of Section 24 cannot be allowed to be misused on such provisions and flimsy reasons and there is no exceptional circumstance which could come in the way of dispensation of justice to the wife nor there are any pleadings or evidence to that effect. No every such petition needs to be entertained and allowed purely because it is instituted by the wife and therefore ought to be some legally justified reasons which are not forthcoming in the present case.

The application being without any merits stands dismissed.

April 27, 2022

amit rana

(FATEH DEEP SINGH)

JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No