

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

**TA-110-2022 (O&M)
Date of decision: 19.07.2022**

Pinky**...Petitioner**

Versus

Baljit Singh**...Respondent****CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN**

Present:- Mr. Ramandeep, Advocate
for the petitioner.

Mr. Amit Puri, Advocate
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 9 of the Hindu Marriage Act, 1955, titled as ***Baljit Singh vs. Pinky***, pending before the Family Court, Sangrur to the competent Court of jurisdiction at Patiala.

On 08.02.2022, while issuing notice of motion, the following order was passed:

“It is submitted by learned counsel for the applicant that one female child aged about 2 years born from the wedlock of the parties to the lis, is in the custody of the applicant. Even, one petition filed under Section 125 Cr.P.C. and one complaint under Protection of Women from Domestic Violence Act, 2005, are pending in the Courts at Patiala. Even, FIR No. 30 dated 25.02.2020 under Sections 406, 498 IPC has also been got registered at Police Station, Women Cell, District Patiala, by the applicant/wife. As such, it is difficult for her to pursue the litigation thrust upon her at the instance of the respondent/husband, more particularly,

when there is minor child aged about three years, residing with her.

Notice of motion for 22.04.2022.”

Learned counsel for the petitioner has argued that on account of a matrimonial discord, the petitioner has filed the aforesaid cases at Patiala and as a counter-blast to the same, the respondent-husband has filed the present petition under Section 9 of the Hindu Marriage Act at Sangrur and the petitioner is facing great difficulty in prosecuting the said case, as there is a distance of about 70 kms between Sangrur and Patiala.

It is further submitted that the petitioner is having a minor child, who is living in her care and custody, therefore, it is very difficult for her to defend the said case at Sangrur.

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

19.07.2022

Waseem Ansari(ARVIND SINGH SANGWAN)
JUDGE*Whether speaking/reasoned**Yes/No**Whether reportable**Yes/No*