

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

TA-115-2022 (O&M)
Date of decision: 20.07.2022

Sonia Verma @ Sonia

....Petitioner

Vs.

Narinder Pal Singh

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Ms. Swati Verma, Advocate
for the petitioner.

None 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, pending before the Family Court, Kharar to the competent Court of jurisdiction at Ludhiana.

While issuing notice of motion, following order was passed by this Court on 17.02.2022: -

“Taken up in virtual mode.

Applicant-wife has filed the application for seeking transfer of the petition filed under Section 9 of the Hindu Marriage Act, at the behest of the respondent-husband,

pending in the Family Court, Kharar, to the Court of competent jurisdiction at Ludhiana.

It is submitted by learned counsel for the applicant that the applicant at present along with the two minor children, is residing at her parental house in Ludhiana. It is further submitted that the applicant does not have any source of earning. Even, the distance between Kharar and Ludhiana is about 82 kilometers and as such, it is difficult for her parents to accompany her to the Courts at Kharar to pursue the litigation imposed upon her at the behest of her husband. Moreover, it is submitted that the petition under Section 125 Cr.P.C. has already been filed by the applicant, which is pending in the Family Court Ludhiana.

Notice of motion for 16.05.2022.

Learned Trial Court shall adjourn the case 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 a petition/complaint under Section 125 Cr.P.C. at Ludhiana. It is further submitted that on account of a petition filed by the respondent-husband, the petitioner is facing great difficulty in prosecuting the said case, as there is a distance of about 82 kms from Ludhiana to Kharar.

Learned counsel has further contended that the petitioner is

having two minor children, who are living in her care and custody and she is facing difficulty to defend the case, as she has to travel from Ludhiana to Kharar.

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 the petitioner-wife will have to bear the litigation expenses and transportation expenses and in view of the judgments in **Sumita Singh's** case (supra) and **Rajani Kishor Pardeshi's** case (supra) passed by the Hon'ble Supreme Court, this Court deem it appropriate to allow the present petition, subject to the following conditions:-

- 1. The petition filed under Section 9 of the Hindu Marriage Act, pending before the Family Court, Kharar will be transferred to the competent Court of jurisdiction at Ludhiana.*
- 2. The District Judge, Ludhiana, will assign the said petition to the competent Court of jurisdiction.*
- 3. The Family Court, Kharar is directed to transfer all the record pertaining to the aforesaid case(s) to District Judge, Ludhiana.*
- 4. The parties are directed to appear before the District Judge, Ludhiana within a period of 01 month from today.*

Present petition is disposed of accordingly.

[ARVIND SINGH SANGWAN]
JUDGE

20.07.2022

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Whether speaking/reasoned : Yes/No

Whether reportable: Yes/No