

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

**TA No. 141 of 2022 (O&M)
Date of decision: 14.07.2022**

Neha Batra

...Petitioner

Versus

Vinay Kumar

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

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

Mr. Kanwaljeet Singh, 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 13 of the Hindu Marriage Act, 1955, titled as ***Vinay Kumar vs. Neha Batra***, pending in the Court of the Principal Judge, Family Court, Sangrur to the competent Court of jurisdiction at Samana, District Patiala.

On 15.02.2022, the following order was passed:

“This petition has been filed by the wife seeking the transfer of the petition filed under Section 13 of the Hindu Marriage Act, 1955, bearing No.HMA/464/2021, titled as 'Vinay Kumar vs. Neha Batra' pending in the Court of Principal Judge, Family Court, Sangrur to the Court of competent jurisdiction at Samana, District Patiala.

The petitioner claims that she got married to the respondent on 16.04.2017. She claims that, at present, she is residing with her aged parents at Samana and the distance between Samana and Sangrur is 70 Kms. The petitioner further claims that she cannot properly defend

the petition at Sangrur. Learned counsel for the petitioner contends that the respondent (husband) is already defending a petition filed under Section 125 Cr.P.C at District Court, Samana.

Notice of motion for 14.03.2022.”

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 Samana, District Patiala and the same is pending. It is further submitted that on account of the aforesaid petition under Section 13 of the Hindu Marriage Act, filed by the respondent-husband, the petitioner is facing great difficulty in prosecuting the said case, as there is a distance of about 70 kms between Samana and 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 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 13 of the Hindu Marriage Act, pending before the Principal Judge, Family Court, Sangrur will be transferred to the competent Court of jurisdiction at Samana, District 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 Samana 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