

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

**TA No.146 of 2022 (O&M)
Date of decision: 11.07.2022**

Rajwinder Kaur

....Petitioner

Versus

Pardeep Singh

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Vijay Lath, Advocate
for the petitioner.

Mr. R.S. Sidhu, Advocate
for the respondent.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this petition is for transfer of the petition filed under Section 9 of the Hindu Marriage Act, pending in the Family Court, Tarn Taran to the competent Court of jurisdiction at Rupnagar.

On 17.02.2022, the following order was passed:-

“Applicant-wife has filed the application for seeking transfer of the petition filed under Section 9 of the Hindu Marriage Act, at the instance of respondent-husband, pending in the Family Court, Tarn Taran, to the Court of competent jurisdiction at Rupnagar.

It is submitted by learned counsel for the applicant that the applicant along with the minor daughter, namely, Gurkirat Kaur, is residing with her mother. It is further submitted that the father of the applicant has already died. She has no source of income. Moreover, she has filed a complaint before the police, which is pending enquiry. Even, a petition under Section 125 Cr.P.C. has been filed, which is pending at Rupnagar. The distance between Rupnagar and Tarn Taran is more than 220 kms. As such, it is difficult for her to pursue the litigation, imposed upon her, at the behest of the respondent.

Notice of motion for 11.07.2022.

Lower Court shall adjourn the matter beyond the date fixed by this Court.”

In pursuance thereof, counsel for the respondent has

appeared and could not dispute the fact that the respondent has filed a petition under Section 9 of the Hindu Marriage Act, which is pending at Family Court, Tarn Taran,

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 Rupnagar.

Counsel for the petitioner has further submitted that the respondent/husband has filed the aforesaid petition under Section 9 of the Hindu Marriage Act, as a counter-blast.

Counsel for the petitioner has also argued 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 200 Kms from Rupnagar to Tarn Taran.

Counsel for the petitioner has lastly, submitted that the petitioner is having a minor child, who is living in her care and custody and she is facing difficulty to defend the case.

Counsel for the petitioner 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 has 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.”*

After hearing the counsel for the petitioner, considering the fact that issuance of notice to the respondent has the consequences of staying further proceedings before the trial Court and in view of the judgments i.e. *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, Tarn Taran will be transferred to the competent Court of jurisdiction at Rupnagar.*
2. *The District Judge, Rupnagar, will assign the said petition to the competent Court of jurisdiction.*

However, liberty is granted to the respondent to revive this petition, if he intent to contest the same, provided that:-

- (a) *The respondent will clear all the maintenance amount, if any, in terms of a petition filed by the petitioner.*
- (b) *The respondent will undertake to pay Rs.1,000/- per day, to the petitioner for attending the Court proceedings at Tarn Taran, on each and every date of hearing.*
- (c) *The respondent will bring a demand draft of Rs.25,000/- towards the litigation expenses of the petitioner to pursue the case at Tarn Taran in case the respondent opt to contest this petition.*

Disposed of.

(ARVIND SINGH SANGWAN)
JUDGE

11.07.2022

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Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No