

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

**TA No.171 of 2022 (O&M)
Date of decision: 25.07.2022**

Amandeep Kaur

....Petitioner

Versus

Lakhvir Chand

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Achin Gupta, Advocate
for the petitioner.

None for the respondent.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this petition is for transfer of the petition filed under Section 13 of the Hindu Marriage Act, pending in the Family Court, Moga to the competent Court of jurisdiction at Faridkot.

Vide order dated 21.03.2022, the following order was passed:-

“The applicant is seeking transfer of a petition tilted as 'Lakhvir Chand Vs. Amandeep Kaur' filed by the respondent under Section 13 of the Hindu Marriage Act, 1955 which is pending in the Court of learned Principal Judge, Family Court, Moga (Annexure A-1), to a Court of competent jurisdiction at Faridkot where she is presently residing with her minor child.

Learned counsel for the applicant contends that since the applicant has a minor child she would be greatly inconvenienced to travel from Faridkot to Moga on each and every date of hearing. It has also been submitted that the following litigations are already pending between the parties at Faridkot :-

i) Petition under Section 12, 17 to 20 and 23 of the Protection of Women from Domestic Violence Act, 2005.

ii) Application for execution of order dated 11.11.2021 with regard to grant of interim maintenance.

iii) Appeal under Section 29 of the Protection of Women from Domestic Violence Act, 2005.

iv) Complaint under Sections 494, 141, 143 and 149 IPC.”

Counsel for the petitioner has argued that on account of a matrimonial discord, the petitioner has filed the aforesaid petitions at Faridkot.

Counsel for the petitioner has further submitted that the respondent/husband has filed the petition under Section 13 of the Hindu Marriage Act, as a counter-blast, before the Principal Judge, Family Court, Moga.

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 50 Kms from Faridkot to Moga.

Counsel for the petitioner has further contended 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 as she has to travel from Faridkot to Moga.

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.”

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 the family condition of the wife, the custody of the minor child, economic condition of the wife, her physical health and earning capacity of the husband and most important the 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.

As per the office report, the service upon the respondent has been effected by way of affixation, however, there is no representation on his behalf.

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 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 13 of the Hindu Marriage Act, pending before the Family Court, Moga will be transferred to the competent Court of jurisdiction at Faridkot.*
2. *The District Judge, Faridkot, will assign the said petition to the competent Court of jurisdiction.*
3. *The Family Court, Moga is directed to transfer all the record pertaining to the aforesaid case to District Judge, Faridkot.*

4. *The parties are directed to appear before the trial Court, Faridkot, within a period of 01 month from today.*

Disposed of.

(ARVIND SINGH SANGWAN)
JUDGE

25.07.2022

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No