

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

**TA-166-2022 (O&M)  
Date of decision: 22.07.2022**

**Sapna**

**...Petitioner**

**Versus**

**Vishal Kanojia alias Vishal**

**...Respondent**

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

Present:- Mr. Shakti Mehta, Advocate  
for the petitioner.

None for the respondent.

**ARVIND SINGH SANGWAN, J. (Oral)**

While issuing notice of motion on 23.02.2022, the following  
order was passed:

“The petitioner, who is wife of the respondent, is seeking transfer of the case filed by the respondent under Section 13 of the Hindu Marriage Act, 1955 (‘Act’ for short) from the Family Court, SBS Nagar to the Family Court at Chandigarh.

Learned counsel for the petitioner contends that a petition under the Domestic Violence Act, 2005 is pending adjudication at Chandigarh. The respondent has preferred a petition under Section 13 of the Act before the Family Court, SBS Nagar. He further contends that it is difficult for the petitioner, who does not have any independent source of income and is solely dependent upon her parents, to travel from Chandigarh to SBS Nagar. Therefore, the petitioner wants transfer of the case under Section 13 of the Act to the Family Court at Chandigarh.

Issue notice to the respondent returnable on  
27.04.2022.

Further proceedings before the Family Court at SBS Nagar shall remain stayed.

List on 27.04.2022.”

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. for grant of maintenance as well as a petition under the Protection of Women from Domestic Violence Act at Chandigarh, which are pending. It is further submitted that as a counter-blast to the aforesaid cases, the respondent-husband has filed the present petition under Section 13 of the Hindu Marriage Act at SBS Nagar in order to harass the petitioner-wife. It is further submitted that the petitioner is facing great difficulty in prosecuting the said case, as there is a distance of about 125 kms between the aforesaid two places.

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

However, liberty is granted to the respondent-husband to revive

this petition, if he intends to contest the same, provided that:-

- (i) *The respondent will clear all the arrears of maintenance amount, if any, in terms of the petition filed by the petitioner either under Section 125 Cr.P.C. or Section 12 of the Domestic Violence Act or Section 24 of the Hindu Marriage Act.*
- (ii) *The respondent will file an affidavit giving undertaking to pay Rs.1,000/- per day, to the petitioner for attending the Court proceedings at SBS Nagar, on each and every date of hearing.*
- (iii) *The respondent will bring a demand draft of Rs.25,000/- towards the litigation expenses of the petitioner to pursue the case at SBS Nagar, in case the respondent opts to contest this petition.*

**22.07.2022**

*Waseem Ansari*

**(ARVIND SINGH SANGWAN)  
JUDGE**

*Whether speaking/reasoned*

*Yes/No*

*Whether reportable*

*Yes/No*