

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

**TA-180-2022 (O&M)  
Date of decision: 22.07.2022**

**Kiranjit Kaur**

**...Petitioner**

**Versus**

**Surinder Singh**

**...Respondent**

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

Present:- Mr. Ashok Kumar Sama, Advocate  
for the petitioner.

Mr. V. K. Aneja, Advocate  
for the respondent.

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

On 25.02.2022, while issuing notice of motion, 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, Sirsa to the Family Court at Fazilka.

Learned counsel for the petitioner contends that a petition under Section 125 Cr.P.C. is pending adjudication at Fazilka. The respondent has preferred a petition under Section 13 of the Act before the Family Court, Sirsa. 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 Fazilka to Sirsa. Therefore, the petitioner wants transfer of the case under Section 13 of the Act to the Family Court at Fazilka.

Issue notice to the respondent returnable on 25.04.2022.

Further proceedings before the Family Court at Sirsa shall remain stayed.”

Learned counsel for the petitioner has argued that on account of a matrimonial discord, the petitioner has filed the aforesaid petition under Section 125 Cr.P.C. at Fazilka and as a counter-blast to the same, the respondent-husband has filed the present petition under Section 13 of the Hindu Marriage Act at Sirsa 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 150 kms. between the said 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.*”

Learned counsel for the respondent-husband has opposed the prayer of the petitioner-wife, however, he could not rebut the arguments made on behalf 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 Family Court, Sirsa will be transferred to the competent Court of jurisdiction at Fazilka, Punjab.*
- (ii) *The District Judge, Fazilka will assign the said petition to the competent Court of jurisdiction.*
- (iii) *The Family Court, Sirsa is directed to transfer all the record pertaining to the aforesaid case to District Judge, Fazilka.*
- (iv) *The parties are directed to appear before the trial Court at Fazilka within a period of 01 month from today.*

22.07.2022

*Waseem Ansari*(ARVIND SINGH SANGWAN)  
JUDGE*Whether speaking/reasoned**Yes/No**Whether reportable**Yes/No*