

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

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**TA No. 141 of 2019
Date of decision : 4.8.2022**

Bimlesh Devi

.....Petitioner

Vs.

Suresh Kumar

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Nitin Bansal, Advocate, for the petitioner.
Mr. Kanhiya Soni, Advocate, for the respondent.

ARVIND SINGH SANGWAN, J. (Oral)

This petition is pending since the year 2019 and while issuing notice of motion on 11.2.2019, the trial Court was directed to adjourn the case beyond the date fixed by this Court and the stay order is continuing in the intervening period. The parties were referred to Mediation Centre number of times but settlement could not arrived at.

On merits, this petition is filed for transfer of the petition under Section 9 of the Hindu Marriage Act for restitution of conjugal rights filed by the respondent-husband, pending before the Family Court, Panchkula to the competent Court of jurisdiction at Bhiwani.

The grounds taken in the petition are that the petition under Section 125 Cr.P.C. filed by the petitioner wife is pending at Bhiwani and the distance between Panchkula and Bhiwani is about 250 kms. Even the petitioner has also given complaint to the police against the respondent and his family members at Bhiwani.

Learned counsel for the respondent has, however, opposed the prayer.

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 has further relied upon **N.C.V. Aishwarya Vs. A.S. Saravana Karthik Sha, 2022 Live Law (SC) 627**, wherein the Hon'ble Supreme Court held as under: -

“The cardinal principle for exercise of power under Section 24 of the Code of Civil Procedure is that the ends of justice should demand the transfer of the suit, appeal or other proceeding. In matrimonial matters, wherever Courts are called upon to consider the plea of transfer, the Courts have to take into consideration the economic soundness of both the parties, the social strata of the spouses and their behavioural pattern, their standard of life prior to the marriage and subsequent thereto and the circumstances of both the parties in eking out their livelihood and under whose protective umbrella they are seeking their sustenance to life. Given the prevailing socioeconomic paradigm in the Indian society, generally, it is the wife's convenience which must be looked at while considering transfer.

Further, when two or more proceedings are pending in different Courts between the same parties which raise common question of fact and law, and when the decisions in the cases are interdependent, it is desirable that they should be tried together by the same Judge so as to avoid multiplicity in trial of the same issues and conflict of decisions.”

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 from her place of residence as well as bearing of the litigation charges and travelling expenses.

After hearing the counsel for the parties, considering the fact that the petitioner-wife will have to bear the litigation expenses and transportation expenses and in view of the judgments in **Sumita Singh's** case (supra), **Rajani Kishor Pardeshi's** case (supra) and **N.C.V. Aishwarya'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, Panchkula will be transferred to the competent Court of jurisdiction at Bhiwani.*
- 2. The District Judge, Bhiwani will assign the said petition to the competent Court of jurisdiction.*
- 3. The Family Court, Panchkula is directed to transfer all the record pertaining to the aforesaid case to District Judge, Bhiwani.*
- 4. The parties are directed to appear before the District Judge, Bhiwani within a period of 01 month from today.*

Present petition is disposed of accordingly.

(ARVIND SINGH SANGWAN)
JUDGE

4.8.2022
Ashwani

Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No