

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

TA No.196 of 2022 (O&M)
Date of decision: 13.07.2022

Binder Kaur

....Petitioner

Versus

Mangaljit Singh

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. R.S. Sekhon, 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, Tarn Taran to the competent Court of jurisdiction at Ferozepur.

Vide order dated 14.03.2022, the following order was passed:-

“The applicant is seeking transfer of a petition bearing No.HMA/287/2021 titled as 'Binder Kaur Vs. Mangaljit Singh' filed by her under Section 13 of the Hindu Marriage Act, 1955 which is pending in the Court of learned Principal Judge, Family Court, Tarn Taran, to a Court of competent jurisdiction at Ferozepur.

Learned counsel inter alia contends that after she was thrown out of her matrimonial home by the respondent, she (along with her two minor children) had been residing with her parents at Ferozepur and living at their mercy. It would, therefore, be very difficult for her to travel alone from Ferozepur to Tarn Taran which is almost 80 kms. away, on each and every date of hearing. Learned counsel submits that the case at Tarn Taran is at the stage of filing written statement. It has also been submitted that a petition under Section 125 Cr.P.C. is already pending between the parties at District Courts at Ferozepur, which

was instituted prior in time.”

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 Ferozepur.

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, Tarn Taran.

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 95 Kms from Ferozepur to Tarn Taran.

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 respondent has been served, 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, Tarn Taran will be transferred to the competent Court of jurisdiction at Ferozepur.*
- 2. The District Judge, Ferozepur, will assign the said petition to the competent Court of jurisdiction.*
- 3. The Family Court, Tarn Taran is directed to transfer all the record pertaining to the aforesaid case to District Judge, Ferozepur.*
- 4. The parties are directed to appear before the trial Court, Ferozepur, within a period of 01 month from today.*

Disposed of.

(ARVIND SINGH SANGWAN)
JUDGE

13.07.2022

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Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No