

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

**205**

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**TA No. 197 of 2022  
Date of decision : 4.8.2022**

**Varsha**

**.....Petitioner**

**Vs.**

**Gaurav**

**.....Respondent**

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

**Present:** Mr. Kanyiya Soni, Advocate, for the petitioner.  
Mr. Balraj Gujjar, Advocate, for the respondent.

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

Prayer in this petition is for transfer of the petition filed by the respondent-husband under Section 13 of the Hindu Marriage Act, pending before the Family Court, Hisar to the competent Court of jurisdiction at Bhiwani.

On 4.3.2022 following order was passed by this Court :

“Learned counsel for the petitioner contends that petitioner seeks transfer of matrimonial case bearing No.DMC/1463 of 2019 titled Gaurav Vs. Varsha from the Court of District Judge Family Court Hissar to the Court of competent jurisdiction at Bhiwani. Marriage of the petitioner was solemnized with the respondent on 29.04.2018 at Bhiwani. No child was born out of the wedlock. Petitioner has already filed criminal case bearing FIR No.317 dated 14.09.2019, under Section 323, 34,354-A, 498-A, 506 IPC against the respondent and his family at Bhiwani and also filed a petition under Section 125 Cr.P.C for maintenance and under Section 9 of Hindu Marriage Act for Restitution of Conjugal rights at Bhiwani. In transfer matters, convenience of the women folk has to be appreciated on the strength of the law laid down in Sumita Singh Vs. Kumar Sanjay and another, AIR 2002 SC 396 and Neelam Kanwar Vs. Devinder Singh Kanwar, (2000) 10 SCC 589.

Notice of motion for 22.04.2022.”

Learned counsel for the petitioner has argued that on account of matrimonial discord, the petitioner has filed petitions under Section 125 Cr.P.C. for maintenance and under Section 9 of HMA for restitution of conjugal rights at Bhiwani. She has also lodged an FIR under Sections 323, 34, 354A, 498A, 506 IPC against the respondent and his family at Bhiwani. It is further submitted that she is studying in MA (Journalish) at Chd. Bansi Lal University, Bhiwani and she is having brother and one younger sister, who are students. Her father is working in Haryana Roadways and presently he is posted at Chandigarh. The petitioner is facing great difficulty in prosecuting the petition filed by the respondent, as there is a distance of about 140 kms from Hisar to Bhiwani.

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."*

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

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 13 of the Hindu Marriage Act, pending before the Family Court, Hisar 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, Hisar 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 Family Court, 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