

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

TA-265-2020 (O&M)
Date of decision: 27.07.2022

Nitin Dhiman

....Petitioner

Vs.

Kamlesh Dhiman and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Neeraj, Advocate for
Mr. Sanjiv Sheoran, Advocate
for the petitioner.

Mr. Dharambir Bhargav, Advocate
for the respondent.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for transfer of Civil Suit No.1240 of 2018 filed by respondent No.1 pending before the Court of Civil Judge (Sr. Divn), Kurukshetra to the competent Court of jurisdiction at SAS Nagar (Mohali).

Learned counsel for the petitioner has argued that on account of matrimonial discord, the petitioner has filed a petition under Section 125 Cr.P.C. and an FIR No.371 dated 09.10.2018 under Sections 406, 498-A IPC at Police Station Zirakpur, District SAS Nagar (Mohali). It is further

submitted that the petitioner is facing great difficulty in prosecuting the aforesaid civil suit, as there is a distance of about 100 kms from SAS Nagar (Mohali) to Kurukshetra.

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 has no serious objection to 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 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 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) 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 Civil Suit No.1240 of 2018 filed by respondent No.1, pending before the Civil Judge (Sr. Divn), Kurukshetra will be transferred to the competent Court of jurisdiction at SAS Nagar (Mohali).*
- 2. The District Judge, SAS Nagar (Mohali) will assign the said petition to the competent Court of jurisdiction.*
- 3. The Civil Judge (Sr. Divn.), Kurukshetra is directed to transfer all the record pertaining to the aforesaid case to District Judge, SAS Nagar (Mohali).*
- 4. The parties are directed to appear before the District Judge, SAS Nagar (Mohali) within a period of 01 month from today.*

Present petition is disposed of accordingly.

[ARVIND SINGH SANGWAN]
JUDGE

27.07.2022

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Whether speaking/reasoned : Yes/No

Whether reportable: Yes/No