

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

**TA-261-2022 (O&M)
Date of decision: 18.07.2022**

Narinder Kaur @ Narinder Kaur Bains

...Petitioner

Versus

Karanpreet Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Naveen Sharma, Advocate
for the petitioner.

Mr. Rishi Kaushal, Advocate
for the respondent.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for transfer of the petition filed by the respondent-husband under Section 9 of the Hindu Marriage Act, 1955, titled as ***Karanpreet Singh vs. Narinder Kaur***, pending before the Family Court, Hoshiarpur to the competent Court of jurisdiction at Ludhiana.

While issuing notice of motion on 16.03.2022, the following order was passed:

“...Learned counsel inter alia contends that after she was thrown out of her matrimonial home by the respondent, she along with her minor child had been residing with her parents at Ludhiana and living at their mercy. It would therefore be very difficult for her to travel alone from Ludhiana to Hoshiarpur, which is almost 100 kms away, on each and every date of hearing.

On a pointed query put to learned counsel as to whether any other case is pending between the parties, he submits that petition under Domestic Violence Act is pending between the parties before the Court at Ludhiana, which was filed prior to the petition filed by

the respondent husband.

Notice of motion for 18.07.2022.

Meanwhile, the Court below at Hoshiarpur shall adjourn the case beyond the date fixed by this Court.”

Learned counsel for the petitioner has argued that on account of a matrimonial discord, the petitioner has filed a petition under Section 12 of the Protection of Women from Domestic Violence Act as well as a complaint under Section 156(3) Cr.P.C. at Ludhiana, which are pending. It is further submitted that as a counter-blast to the aforesaid cases filed by the petitioner-wife, the respondent-husband has filed the present petition under Section 9 of the Hindu Marriage Act at Hoshiarpur and the petitioner is facing great difficulty in prosecuting the said case, as there is a distance of about 80 kms between Hoshiarpur and Ludhiana.

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 on the ground that the distance between Hoshiarpur and Ludhiana is not much and the petitioner can easily contest the said case at Hoshiarpur.

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 parties, 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 9 of the Hindu Marriage Act, pending before the Family Court, Hoshiarpur will be transferred to the competent Court of jurisdiction at Ludhiana.*
- (ii) *The District Judge, Ludhiana will assign the said petition to the competent Court of jurisdiction.*
- (iii) *The Family Court at Hoshiarpur is directed to transfer all the record pertaining to the aforesaid case to District Judge, Ludhiana.*
- (iv) *The parties are directed to appear before the trial Court at Ludhiana within a period of 01 month from today.*

18.07.2022

Waseem Anwar(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No