

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

**TA No.255 of 2022 (O&M)
Date of decision: 13.07.2022**

Vimmy Sethi

....Petitioner

Versus

Pankaj Narang

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Ms. Sarika Gupta, 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, Ludhiana to the competent Court of jurisdiction at Kharar, Mohali.

Vide order dated 15.03.2022, the following order was passed:-

“The applicant is seeking transfer of a petition under Section 13 of Hindu Marriage Act filed by the respondent, which is pending in the Court of Addl. Principal Judge, Family Court, Ludhiana to a Court of competent jurisdiction at Mohali.

Learned counsel inter alia contends that after she was thrown out of her matrimonial home by the respondent, she had been residing with her parents at Kharar and living at their mercy. It would therefore be very difficult for her to travel alone from Mohali to Ludhiana as she has no source of income.

On a pointed query put to learned counsel as to whether any other case is pending between the parties, he submits that one petition under Section 125 Cr.PC is pending before the Court at Kharar.

Notice of motion for 13.07.2022.

Meanwhile, trial Court shall adjourn the case beyond the date fixed by this Court.”

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 Kharar, Mohali.

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, Ludhiana.

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 85 Kms from Kharar, Mohali to Ludhiana.

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

Disposed of.

(ARVIND SINGH SANGWAN)
JUDGE

13.07.2022

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Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No