

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

**TA No. 264 of 2022 (O&M)
Date of decision: 14.07.2022**

Mukesh Rani

...Petitioner

Versus

Anil Kumar

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

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

Mr. Ranvir S. Chauhan, 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 13 of the Hindu Marriage Act, 1955, titled as ***Anil Kumar vs. Mukesh Rani***, pending in the Court of the Principal Judge, Family Court, Jind to the competent Court of jurisdiction at Hisar.

On 21.03.2022, the following order was passed:

“The applicant is seeking transfer of a petition bearing No.HMA/636/2020 titled as 'Anil Kumar Vs. Mukesh Rani' filed by the respondent under Section 13 of the Hindu Marriage Act, 1955 which is pending in the Court of learned Principal Judge, Family Court, Jind (Annexure P-1), to a Court of competent jurisdiction at Hisar.

Learned counsel for the applicant submits that the following litigations are already pending between the

parties at Hisar, which were instituted prior in time to the aforementioned petition:-

- i) Petition under Section 125 Cr.P.C.
- ii) Petition under Section 12 of the Protection of Women from Domestic Violence Act, 2005.

Learned counsel further prays that the petition under Section 13 of the Hindu Marriage Act, 1955 be also transferred to a Court of competent jurisdiction at Hisar.

On a pointed query put to the learned counsel as to whether the cases pending at District Courts at Hisar were instituted prior in time to the petition under Section 13 of the Hindu Marriage Act, 1955, he seeks an adjournment to apprise the Court about the same.

Adjourned to 02.05.2022.”

Learned 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. and a petition under Section 12 of the Protection of Women from Domestic Violence Act, 2005 at Hisar and the same are pending. It is further submitted that on account of the aforesaid petition under Section 13 of the Hindu Marriage Act, filed by the respondent-husband, the petitioner is facing great difficulty in prosecuting the said case, as there is a distance of about 75 kms between Jind and Hisar.

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.

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 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 13 of the Hindu Marriage Act, pending before the Principal Judge, Family Court, Jind will be transferred to the competent Court of jurisdiction at Hisar.*
- (ii) *The District Judge, Hisar will assign the said petition to the competent Court of jurisdiction.*

- (iii) *The Family Court at Jind is directed to transfer all the record pertaining to the aforesaid case to District Judge, Hisar.*
- (iv) *The parties are directed to appear before the trial Court at Hisar within a period of 01 month from today.*

14.07.2022
Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>