

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

**TA-285-2022 (O&M)
Date of decision: 22.07.2022**

Aneet Inder Kaur

...Petitioner

Versus

Damandeep Singh @ Rajan

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. H. S. Thiara, Advocate
for the petitioner.

None for the respondent.

ARVIND SINGH SANGWAN, J. (Oral)

On 25.03.2022, while issuing notice of motion, the following
order was passed:

“The applicant is seeking transfer of a petition bearing No.GW/107/2020 titled as 'Damandeep Singh @ Rajan Vs. Aneet Inder Kaur' filed by the respondent under Section 25 of the Guardians and Wards Act, 1890 (for short, 'the Act of 1890') which is pending in the Court of learned Principal Judge, Family Court Amritsar (Annexure P1), to a Court of competent jurisdiction at Hoshiarpur, which is 150 kms. away.

Learned counsel for the applicant contends that the following cases are already pending adjudication before the Courts at Hoshiarpur wherein the respondent had been putting in an appearance for the last three years:- i) Complaint under Sections 406 and 498-A IPC. ii) Complaint under Sections 12, 17 to 20, 22 and 23 of the Protection of Women from Domestic Violence Act, 2005.

It has also been submitted by learned counsel that as per Section 9 of the Act of 1890 the petition under

Section 25 should normally be instituted and heard at the place where the minor child ordinarily resides.

Notice of motion for 22.07.2022.

Meantime, the Court below 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 the aforesaid two cases at Hoshiarpur and as a counter-blast to the same, the respondent-husband has filed the present petition under Section 25 of the Guardians and Wards Act at Amritsar in order to harass the petitioner-wife. It is further submitted that the petitioner is facing great difficulty in prosecuting the said case, as there is a distance of about 150 kms. between the said two places.

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.*”

Vide order dated 25.03.2022, since the trial Court was directed to adjourn the case beyond the date fixed by this Court, it is deemed to be a notice of filing the present petition to respondent-husband.

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

However, liberty is granted to the respondent-husband to revive this petition, if he intends to contest the same, provided that:-

- (i) *The respondent will clear all the arrears of maintenance amount, if any, in terms of the petition filed by the petitioner either under Section 125 Cr.P.C. or Section 12 of the Domestic Violence Act or Section 24 of the Hindu Marriage Act.*
- (ii) *The respondent will file an affidavit giving undertaking to pay Rs.1,000/- per day, to the petitioner for attending the Court proceedings at Amritsar, on each and every date of hearing.*
- (iii) *The respondent will bring a demand draft of Rs.25,000/- towards the litigation expenses of the petitioner to pursue the case at Amritsar, in case the respondent opts to contest this petition.*

22.07.2022

*Waseem Ansari***(ARVIND SINGH SANGWAN)**
JUDGE*Whether speaking/reasoned**Yes/No**Whether reportable**Yes/No*