

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

**TA No. 282 of 2022 (O&M)  
Date of decision: 14.07.2022**

**Sandeep Kaur @ Sandip Kaur**

**...Petitioner**

**Versus**

**Malkeet Singh**

**...Respondent**

**CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN**

Present:- Mr. Vivek K. Thakur, Advocate  
for the petitioner.

None 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 ***Malkeet Singh vs. Sandeep Kaur***, pending in the Court of the Principal Judge, Family Court, Amritsar to the competent Court of jurisdiction at Kapurthala.

On 24.03.2022, the following order was passed:

“The applicant is seeking transfer of a petition under Section 9 of Hindu Marriage Act filed by the respondent, which is pending in the Court of Addl. Principal Judge, Family Court, Amritsar to a Court of competent jurisdiction at Kapurthala.

Learned counsel inter alia contends that prior to the institution of petition under Section 9 of Hindu Marriage Act by the respondent, a criminal case was registered against the respondent for kidnapping of the minor children of the parties, however, later on the matter was amicably compromised and the FIR in question quashed by this Court. Learned counsel further

submits that thereafter yet again respondent started subjecting the applicant to harassment and cruelty as a result of which she was left with no other option but to seek refuge alongwith her two schoolgoing children in her parents' house where she is now presently living at their mercy. He still further submits that the petition under Section 9 is at the initial stage and the applicant would not be averse to exploring the possibility of an amicable settlement with the respondent since the parties are blessed with two minor children.

Notice of motion for 14.07.2022.”

Learned counsel for the petitioner has argued that on account of a matrimonial discord, the petitioner has filed a complaint before the SSP, Kapurthala for taking legal action against the respondent-husband and other in-laws. It is further submitted that on account of the aforesaid petition under Section 9 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 68 kms between Amritsar and Kapurthala.

Learned counsel for the petitioner further submits that the petitioner along with her two children is residing with her parents at Kapurthala and it is not possible for her to bear the litigation and transportation expenses to contest the said case at Amritsar.

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.”*

There is no representation on behalf of the respondent-husband as he has refused to accept the notice.

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 9 of the Hindu Marriage Act, pending before the District Judge, Amritsar will be transferred to the competent Court of jurisdiction at Kapurthala.*
- (ii) *The District Judge, Kapurthala will assign the said petition to the competent Court of jurisdiction.*
- (iii) *The Family Court at Amritsar is directed to transfer all the record pertaining to the aforesaid*

*case to District Judge, Kapurthala.*

- (iv) *The parties are directed to appear before the trial Court at Kapurthala 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 opt to contest this petition.*

**14.07.2022**

*Waseem Ansari*

**(ARVIND SINGH SANGWAN)  
JUDGE**

*Whether speaking/reasoned*

*Yes/No*

*Whether reportable*

*Yes/No*