

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

229

TA-345-2022 (O&M)
Date of decision: 29.08.2022

Sandeep Kaur**...Petitioner**

Versus

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

Present:- Mr. J. K. Singla, Advocate
for the petitioner.

Mr. R. S. Mann, 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 ***Jaspreet Singh vs. Sandeep Kaur***, pending before the Family Court, Ludhiana to the competent Court of jurisdiction at Phul, District Bathinda.

While issuing notice of motion on 17.05.2022, the following order was passed:

“Learned counsel contends that the petitioner was married to the respondent on 25.03.2015 but was turned out from the matrimonial home at Ludhiana by the respondent in the year 2021, the petitioner is not being paid any maintenance, the petitioner has instituted proceedings under Section 12 of the Domestic Violence Act, at Rampura Phull, Distt. Bathinda where the respondent is appearing and now the respondent has instituted proceedings under Section 9 of the Hindu Marriage Act at Ludhiana which is at a distance of more

than 110 kms and that in the circumstances, it is extremely difficult for the petitioner to participate in the proceedings before the Family Court at Ludhiana. Consequently, the proceedings under Section 9 of the Hindu Marriage Act are liable to be transferred from Ludhiana to Rampur Phull, Distt. Bathinda.

Notice of motion for 25.07.2022.

In the meantime, proceedings listed before the Family Court at Ludhiana be deferred to a date beyond the date fixed before this Court.”

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 petitioner has further relied upon ***2022 Live Law (SC) 627 N.C.V. Aishwarya vs. A.S. Saravana Karthik Sha***, wherein Hon'ble Supreme Court has held as under:

“9. The cardinal principle for exercise of power under Section 24 of the Code of Civil Procedure is that the ends of justice should demand the transfer of the suit, appeal or other proceeding. In matrimonial matters, wherever Courts are called upon to consider the plea of transfer, the Courts have to take into consideration the economic soundness of both the parties, the social strata

of the spouses and their behavioural pattern, their standard of life prior to the marriage and subsequent thereto and the circumstances of both the parties in eking out their livelihood and under whose protective umbrella they are seeking their sustenance to life. Given the prevailing socioeconomic paradigm in the Indian society, generally, it is the wife's convenience which must be looked at while considering transfer.

10. Further, when two or more proceedings are pending in different Courts between the same parties which raise common question of fact and law, and when the decisions in the cases are interdependent, it is desirable that they should be tried together by the same Judge so as to avoid multiplicity in trial of the same issues and conflict of decisions.”

Affidavit of the respondent-husband is taken on record.

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), **Rajani Kishor Pardeshi's** case (supra) and **N.C.V. Aishwarya'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, Ludhiana will be transferred to the competent Court of jurisdiction at Phul, District Bathinda.*
- (ii) *The District Judge, Bathinda will assign the said petition to the competent Court of jurisdiction.*
- (iii) *The Family Court at Ludhiana is directed to transfer all the record pertaining to the aforesaid case to District Judge, Bathinda.*
- (iv) *The parties are directed to appear before the trial Court at Phul, District Bathinda within a period of 01 month from today.*
- (v) *The Courts concerned, where the cases are pending between the parties, will accommodate them with one date in a calendar month.*

29.08.2022

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No