

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

**TA No. 440 of 2022 (O&M)
Date of decision: 15.07.2022**

Babita

...Petitioner

Versus

Naveen

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Ms. Aashna Gill, Advocate
for the petitioner.

Mr. R. S. Malik, Advocate
fo the respondent.

ARVIND SINGH SANGWAN, J. (Oral)

CM-8139-CII-2022

Allowed as prayed for.

Reply, filed on behalf of the respondent, is taken on record.

Main case

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 ***Naveen vs. Babita***, pending in the Court of the Addl. Principal Judge, Family Court, Sonipat to the competent Court of jurisdiction at Panchkula.

Learned counsel for the petitioner submits that the petitioner is presently serving at Panchkula and she has a minor daughter, who is living in her care and custody at Panchkula.

Learned counsel further submits that it is very difficult for the petitioner to contest the case at Sonipat as no maintenance qua the minor child is being paid by the respondent-husband.

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 submits that at the instance of the petitioner, two FIRs have been registered against the respondent-husband and his family members, out of which, one FIR stands cancelled and in the second FIR, except the respondent-husband, the other family members have been exonerated and the respondent is facing trial.

It is further submitted that the petitioner is serving as Head Constable in Haryana Police and that is why she has involved the respondent in unnecessary litigation.

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 parties, considering the fact

that if the aforesaid petition is not transferred, the petitioner-wife, who is living at Panchkula along with her minor daughter, 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 Addl. Principal Judge, Family Court, Sonipat will be transferred to the competent Court of jurisdiction at Panchkula.*
- (ii) *The District Judge, Panchkula will assign the said petition to the competent Court of jurisdiction.*
- (iii) *The Family Court at Sonipat is directed to transfer all the record pertaining to the aforesaid case to District Judge, Panchkula.*
- (iv) *The parties are directed to appear before the trial Court at Panchkula within a period of 01 month from today.*

15.07.2022

Waseem Ansari(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No