

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

**TA No.508 of 2022 (O&M)
Date of decision: 25.07.2022**

Kirandeep Kaur

....Petitioner

Versus

Jagmeet Singh Bajwa

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Jitender Singh, Advocate
for the petitioner.

None for the respondent.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this petition is for transfer of the petition filed under Section 13 of the Hindu Marriage Act, pending in the Family Court, Kurukshetra Camp at Pehowa to the competent Court of jurisdiction at Karnal.

Vide order dated 20.05.2022, the following order was passed:-

“Learned counsel contends that the petitioner was married to the respondent on 09.05.2010, whereafter she started residing with him at Pehowa, however she was turned out from her matrimonial home by the respondent in the year 2018 and now the petitioner is residing in her paternal home at Karnal with her seven years old daughter and she has no source of income nor is any maintenance being paid to her, her father is working in Haryana Police and is posted at Ambala, while her mother is sick, besides the respondent is working in a Insurance Company and is posted at Karnal where he has rented an apartment but solely with a view to harass the petitioner, he has filed the proceedings under Section 13 of the Hindu Marriage Act, at Pehowa. Learned counsel contends that in the circumstances, the proceedings under Section 13 of the Hindu Marriage Act, are liable to be transferred to Karnal, especially in view of Section 19(ii) of the Hindu Marriage Act, as the petitioner is residing at Karnal.”

Counsel for the petitioner has argued that on account of a matrimonial discord, the respondent/husband has filed the petition under Section 13 of the Hindu Marriage Act, as a counter-blast, before the Principal Judge, Family Court, Kurukshetra Camp at Pehowa.

Counsel for the petitioner has also argued that on account of a petition filed by the respondent/husband, the petitioner is facing great difficulty in prosecuting the said case as there is a distance of about 60 Kms from Karnal to Kurukshetra Camp at Pehowa.

Counsel for the petitioner has further contended that the petitioner is having a minor child, who is living in her care and custody and she is facing difficulty to defend the case as she has to travel from Karnal to Kurukshetra Camp at Pehowa.

Counsel for the petitioner 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 has 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.”*

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 the family condition of the wife, the custody of the minor child, economic condition of the wife, her physical health and earning

capacity of the husband and most important the 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.

As per the office report, notice issued to the respondent has not been received back served or otherwise.

After hearing the counsel for the petitioner, considering the fact that issuance of notice to the respondent again, has the consequences of staying further proceedings before the trial Court, otherwise the petitioner/wife will have to bear the litigation expenses and transportation expenses and in view of the judgments i.e. ***Sumita Singh's case (supra)*** and ***Rajani Kishor Pardeshi's case (supra)*** passed by the Hon'ble Supreme Court, this Court deem it appropriate to allow the present petition, subject to the following conditions:-

1. *The petition filed under Section 13 of the Hindu Marriage Act, pending before the Family Court, Kurukshetra Camp at Pehowa will be transferred to the competent Court of jurisdiction at Karnal.*
2. *The District Judge, Karnal, will assign the said petition to the competent Court of jurisdiction.*
3. *The Family Court, Kurukshetra Camp at Pehowa is directed to transfer all the record pertaining to the aforesaid case to District Judge, Karnal.*
4. *The parties are directed to appear before the trial Court, Karnal, within a period of 01 month from today.*

Disposed of.

(ARVIND SINGH SANGWAN)
JUDGE

25.07.2022

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Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No