

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

**TA No.593 of 2022 (O&M)
Date of decision: 18.10.2022**

Anju

....Petitioner

Versus

Parveen Kumar

....Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. D.P.S. Bajwa, Advocate
for the petitioner.

Mr. Sachin Gupta, Advocate
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, Kaithal to the competent Court of jurisdiction at Camp Court Narwana, District Jind.

Counsel for the petitioner, at the very outset, has argued that on a previous occasion, when the petitioner has filed a petition under Section 125 Cr.P.C., which was pending before the Sub-Divisional Judicial Magistrate, Narwana, District Jind, by way of a consent order, the same was transferred to the competent Court of jurisdiction at Kurukshetra. A perusal of the order dated 31.10.2019 passed in CRM-M No.56118 of 2018, reflects that the said order was passed with the consent of the parties.

Though from the reply filed by the respondent, it appears that there are ample litigation pending between the parties at different level as the order passed under Section 125 Cr.P.C., is partially stayed

by the higher Court as well as the proceedings under the Domestic Violence Act is also stayed by this Court.

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.*”

Counsel for the petitioner has also relied upon the judgment “**N.C.V. Aishwarya vs A.S. Saravana Karthik Sha**,” 2022 Live Law (SC) 627, wherein the Hon’ble Supreme Court has observed 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.”

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.

Counsel for the respondent has, however, not disputed the factual position.

After hearing the counsel for the parties, considering the fact that the petitioner is having the custody of the minor child and she is taking care of the minor son and also in view of the fact that on an earlier occasion, a consent order was passed and further in view of the fact that 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)***, ***Rajani Kishor Pardeshi's case (supra)*** and ***N.C.V. Aishwarya's case (supra)*** passed by the Hon'ble Supreme Court, this Court deem it appropriate to allow the present petition and accordingly, it is directed that the proceedings pending before the Family Court Kaithal will be transferred to Family Court Kurukshetra, where the earlier litigation was also transferred between the parties,

subject to the following conditions:-

- 1. The petition filed under Section 13 of the Hindu Marriage Act, pending before the Family Court, Kaithal will be transferred to the competent Court of jurisdiction at Kurukshetra.*
- 2. The District Judge, Kurukshetra, will assign the said petition to the competent Court of jurisdiction.*
- 3. The Family Court, Kaithal is directed to transfer all the record pertaining to the aforesaid case to District Judge, Kurukshetra.*
- 4. The parties are directed to appear before the trial Court, Kurukshetra, within a period of 01 month from today.*
- 5. The Family Court, Kurukshetra will make all endeavour to refer the case before the Mediation and Conciliation Centre for exploring the possibility of some amicable settlement between the parties.*
- 6. The Court concerned, where the litigation pending between the parties, will accommodate them with one date in one calendar month.*
- 7. The respondent/husband will keep on paying the litigation expenses to the tune of Rs.1500/- on the date when the petitioner is to put in appearance before the Court.*

Disposed of.

The Family Court, Kurukshetra, is also directed to conclude the trial expeditiously within a period of 06 months from today.

(ARVIND SINGH SANGWAN)
JUDGE

18.10.2022

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Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No