

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of decision: 09.08.2022

1. TA-315-2022 (O&M)

Priyanka Katara

....Petitioner

Vs.

Krishan Kant Katara

....Respondent

2. TA-603-2022 (O&M)

Priyanka Katara

....Petitioner

Vs.

Krishan Kant Katara

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. P.K. Bansal, Advocate
for the petitioner (in both cases).

Mr. K.S. Dhillon, Advocate
for the respondent (in both cases).

ARVIND SINGH SANGWAN, J. (Oral)

CM-9650-CII-2022 in TA-315-2022

For the reasons stated in the application, same is allowed.

Annexure R-1 is taken on record and exemption sought is granted.

CM stands disposed of.

CM-9643-CII-2022 in TA-603-2022

For the reasons stated in the application, same is allowed.

Annexures R-1 & R-2 is taken on record and exemption sought is granted.

CM stands disposed of.

TA-315 & 603-2022

Prayer in both these petitions is for transfer of the petitions filed by the respondent-husband under Section 9 of the Hindu Marriage Act and under Sections 7, 8 & 25 of Guardian and Wards Act read with Section 6 of Hindu Marriage and Guardianship Act, both pending in the Court of Family Court, Jalandhar to the competent Court of jurisdiction at Ferozepur.

Learned counsel for the petitioner has argued that on account of matrimonial discord, the petitioner has filed a petition under Section 125 Cr.P.C., a petition/complaint under the Domestic Violence Act and a complaint under Sections 406, 498-A, 354, 34 IPC and these cases are pending before the Courts at Ferozepur. It is further submitted that the petitioner is facing great difficulty in prosecuting the petition filed by the respondent, as there is a distance of about 120 kms between Ferozepur and Jalandhar.

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

“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.

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.”

Learned counsel for the respondent has raised only one objection that the petitioner is proceeded against ex-parte in both the proceedings, therefore, these petitions are not maintainable.

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 issuance of notice to the respondent 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 fact that even in case notice of motion is issued, even the respondent/husband has to bear the litigation expenses and in view of the judgments in **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 and also considering the fact, which goes in favour of the petitioner-wife that she is not in a position to engage the counsel and defend

the case at Jalandhar, that is why she was proceeded against ex-parte, this Court deem it appropriate to allow these petitions, subject to the following conditions:-

- 1. The petitions filed by the respondent-husband under Section 9 of the Hindu Marriage Act and under Sections 7, 8 & 25 of Guardian and Wards Act read with Section 6 of Hindu Marriage and Guardianship Act, pending before the Family Court, Jalandhar will be transferred to the competent Court of jurisdiction at Ferozepur.*
- 2. The District Judge, Ferozepur will assign the said petitions to the competent Court of jurisdiction.*
- 3. The Family Court, Jalandhar is directed to transfer all the record pertaining to the aforesaid cases to District Judge, Ferozepur.*
- 4. The parties are directed to appear before the Family Court, Ferozepur within a period of 01 month from today.*

Both these petitions are disposed of accordingly.

A photocopy of this order be placed on file of connected case.

[ARVIND SINGH SANGWAN]
JUDGE

09.08.2022

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Whether speaking/reasoned : Yes/No

Whether reportable: Yes/No