

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

**TA No.628 of 2022 (O&M)
Date of decision: 12.07.2022**

Bhupinder Kaur and another

....Petitioners

Versus

Gursukhraj Singh

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Jaideep Verma, Advocate
and Mr. Himanshu Chhabra, Advocate
for the petitioners.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this petition is for transfer of the petition filed under Section 25 of the Guardians & Wards Act, pending in the Family Court, Bathinda to the competent Court of jurisdiction at Ludhiana.

Counsel for the petitioners has argued that on account of a matrimonial discord, the petitioner No.1 has filed a petition under Section 125 Cr.P.C. and also got registered an FIR under Section 498-A IPC at Ludhiana.

Counsel for the petitioners has further submitted that the respondent/husband has filed the petition under Section 25 of the Guardians & Wards Act, as a counter-blast, before the Principal Judge, Family Court, Bathinda.

Counsel for the petitioners has also argued that on account of a petition filed by the respondent/husband, the petitioners is facing great difficulty in prosecuting the said case as there is a distance of about 145 Kms from Ludhiana to Bathinda.

Counsel for the petitioners has further contended that the

petitioners is having a minor child, aged about 09 years, who is living in her care and custody and she is facing difficulty to defend the case as she has to travel from Ludhiana to Bathinda.

Counsel for the petitioners 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.

After hearing the counsel for the petitioners, considering the fact that issuance of notice to the respondent has the consequences of staying further proceedings before the trial Court, otherwise the petitioners/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 25 of the Guardians & Wards Act, pending before the Family Court, Bathinda will be transferred to the competent Court of jurisdiction at Ludhiana.*
2. *The District Judge, Ludhiana, will assign the said petition to the competent Court of jurisdiction.*

However, liberty is granted to the respondent to revive this petition, if he intent to contest the same, provided that:-

- (a) The respondent will clear all arrears of maintenance amount, if any, in terms of a petition filed by the petitioners either under Section 125 Cr.P.C. or Section 12 of the Domestic Violence Act or Section 24 of the Hindu Marriage Act.*
- (b) The respondent will file an affidavit giving undertaking to pay Rs.1,000/- per day, to the petitioners for attending the Court proceedings at Bathinda, on each and every date of hearing.*
- (c) The respondent will bring a demand draft of Rs.25,000/- towards the litigation expenses of the petitioners to pursue the case at Bathinda in case the respondent opt to contest this petition.*

Disposed of.

(ARVIND SINGH SANGWAN)
JUDGE

12.07.2022

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No