

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

**TA-706-2022 (O&M)
Date of decision: 18.07.2022**

Ritu Bhutani @ Ritu Anand

...Petitioner

Versus

Sameer Anand

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. P. S. Miglani, Advocate
for the petitioner.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for transfer of the petition filed by the respondent-husband under Section 13(i)(a) of the Hindu Marriage Act, 1955, titled as ***Sameer Anand vs. Ritu Anand***, which has been decreed *ex-parte* by the Family Court, Sirsa to the competent Court of jurisdiction at Palwal with liberty to petitioner to file an appropriate application for setting aside the *ex-parte* decree.

Learned counsel for the petitioner has argued that on account of a matrimonial discord, the petitioner-wife has filed a petition under Section 125 Cr.P.C. for grant of maintenance at Palwal, which is pending and as a counter-blast to the same, the respondent-husband had filed the present petition under Section 13(i)(a) of the Hindu Marriage Act at Sirsa in order to harass the petitioner, which has been decreed *ex-parte*. It is further submitted that the petitioner was not able to defend the said case as there is a distance of about 330 kms between Sirsa and Palwal.

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.”*

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 learned counsel for the petitioner, considering the the aforesaid facts and circumstances and also 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 deems it appropriate to allow the present petition, with the following directions:-

- (i) *The petition filed under Section 13(i)(a) of the Hindu Marriage Act, before the Family Court, Sirsa will be transferred to the competent Court of jurisdiction at Palwal.*
- (ii) *The District Judge, Palwal will assign the said petition to the competent Court of jurisdiction.*
- (iii) *The Family Court at Sirsa is directed to transfer all the record pertaining to the aforesaid case to*

District Judge, Palwal.

- (iv) *The parties are directed to appear before the trial Court at Palwal within a period of 01 month from today.*

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

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

It will be open for the petitioner-wife to move an appropriate application for setting aside the *ex-parte* decree of divorce.

18.07.2022

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No