

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

235

TA-742-2021 (O&M)
Date of decision: 09.08.2022

Meenu

...Petitioner

Versus

Mohit

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. K. S. Virk, Advocate
for the petitioner.

Mr. Bharat Bhushan Sharma, Advocate
for the respondent.

ARVIND SINGH SANGWAN, J. (Oral)

While issuing notice of motion on 23.08.2021, the following
order was passed:

“...This petition has been filed by the wife seeking the transfer of the petition filed under Section 13 of the Hindu Marriage Act, 1955, bearing No. HMA/115/21, titled as 'Mohit vs. Meenu' pending in the Court of Additional Principal Judge, Family Court, Karnal to the Court of competent jurisdiction at Jind (Camp Court, Safidon).

The petitioner claims that she got married to the respondent on 25.09.2017. She claims that at present, she alongwith her minor son, is residing with her parents at Jind and cannot properly defend the petition at Karnal.

Learned counsel representing the petitioner contends that the respondent (husband) is already facing trial in two cases in District Courts, Jind i.e. FIR No.303, dated 21.10.2020 registered under Section 498-A, 323 IPC and a petition under Section 125 Cr.P.C.

Notice of motion for 10.09.2021...”

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 for the petitioner has further relied upon ***2022 Live Law (SC) 627 N.C.V. Aishwarya vs. A.S. Saravana Karthik Sha***, wherein Hon'ble Supreme Court has held 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.”

Learned counsel for the respondent-husband has opposed the prayer of the petitioner-wife.

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 petitioner, considering the fact that if the aforesaid petition is not transferred, the petitioner-wife will have to bear the litigation expenses and transportation expenses and also in view of the ratio of law laid down by Hon'ble Supreme Court in **Sumita Singh's** case (supra) and **Rajani Kishor Pardeshi's** case (supra), this Court deems it appropriate to allow the present petition, with the following directions:-

- (i) *The petition filed under Section 13 of the Hindu Marriage Act, pending before the Family Court, Karnal will be transferred to the competent Court of jurisdiction at Camp Court Safidon, District Jind.*
- (ii) *The District Judge, Jind will assign the said*

petition to the competent Court of jurisdiction.

- (iii) The Family Court at Karnal is directed to transfer all the record pertaining to the aforesaid case to District Judge, Jind.*
- (iv) The parties are directed to appear before the trial Court at Safidon, Jind within a period of 01 month from today.*

09.08.2022
Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*