

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

**TA No.452 of 2020 (O&M)
Date of decision: 14.07.2022**

Kulwinder Kaur

....Petitioner

Versus

Ravel Singh

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Puneet Kumar Bansal, Advocate
for the petitioner.

None for the respondent.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this petition is for transfer of the petition filed under Section 12 of the Hindu Marriage Act, pending in the Family Court, Tarn Taran to the competent Court of jurisdiction at Ferozepur.

Vide order dated 12.10.2020, the following order was passed:-

“Prayer in the present application is for transfer of petition titled as "Kulwinder Kaur vs. Ravel Singh" filed by the petitioner under Section 12 of the Hindu Marriage Act, 1955 (for short 'the Act') from the Court of learned District Judge, Tarn Taran to the court of competent jurisdiction at Ferozepur.

It is stated that the marriage of the petitioner and the respondent was solemnized on 18.02.2012 and out of the wedlock, two children i.e one female child namely Sukhmanpreet Kaur Randhawa, who is aged about 7 years and a son namely Gursharan Singh Randhawa, who is 4 years old were born. Both the children are in the care and custody of the petitioner. It is alleged that after the

marriage, the respondent and his family members raised demand of dowry and used to harass and beat the petitioner. The respondent has been residing at Madrid and only occasionally visit India. After the petitioner came to know that prior to their marriage, the respondent was already married, she filed petition under Section 12 of the Act for declaring her marriage to be null and void. The petitioner apprehends danger to her life at the hands of family members of the respondent. She is residing at Ferozepur, which is about 100 kms away and it is very difficult for her being lady having two minor children to attend the proceedings initiated against respondent husband at Tarn Taran.

Notice of motion for 15.12.2020.”

Counsel for the petitioner has argued that on account of a matrimonial discord, the petitioner has filed a petition under Section 12 of the Hindu Marriage Act at Tarn Taran and she is residing at Ferozepur and the distance between Ferozepur to Tarn Taran is about 100 Kms.

Counsel for the petitioner has further contended that the petitioner is having 02 minor children, who are living in her care and custody and she is facing difficulty to defend the case as she has to travel from Ferozepur to Tarn Taran.

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.”

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.

As per the office report, despite issuance of repeated notices, it has come that the respondent is residing abroad and no one is accepting the notice on his behalf despite the fact that further proceedings before the trial Court remain stayed and it came to the notice of counsel for the respondent and no efforts are made to put in appearance on behalf of the respondent.

After hearing the counsel for the petitioner, considering 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)*** 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 12 of the Hindu Marriage Act, pending before the Family Court, Tarn Taran will be*

transferred to the competent Court of jurisdiction at Ferozepur.

- 2. The District Judge, Ferozepur, will assign the said petition to the competent Court of jurisdiction.*
- 3. The Family Court, Tarn Taran is directed to transfer all the record pertaining to the aforesaid case to District Judge, Ferozepur.*
- 4. The parties are directed to appear before the trial Court, Ferozepur, within a period of 01 month from today.*

Disposed of.

(ARVIND SINGH SANGWAN)
JUDGE

14.07.2022
yakub

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No