

CRM-30337-2022 in/and
CRM-M-33652-2022(O&M)
Date of decision: 14.09.2022

PUSHPA AND ANR.

...PETITIONERS

VERSUS

PARVESH KUMAR

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Vishwajeet Singh, Advocate for the petitioner.

VIVEK PURI,J. (ORAL)CRM-30337-2022

This is an application for placing on record the copy of order dated 25.07.2022 passed in TA-746/2022 as Annexure P-5.

CRM application is disposed of and Annexure P-5 is taken on record.

Registry to tag the same at the appropriate place.

Main case

Petitioners are seeking to transfer the petition under Section 125 of the Code of Criminal Procedure (for short 'Code') titled as "Smt. Pushpa and another Versus Parvesh Kumar" bearing case No.MNT-169/2021 pending in the Court of learned Principal Judge, Family Court Palwal to Competent Court of District Gurugram.

Learned counsel for the petitioners submit that at the time of institution of the petition under Section 125 of the Code, the petitioners were residing in the matrimonial house at Palwal. Subsequently, they have been thrown out of the matrimonial house and had shifted the residence to the parental house at Palwal. The respondent had instituted a petition under Section

13-1(a) of Hindu Marriage Act in the Family Court, Palwal and the same has been transferred to the Competent Court of Jurisdiction at Gurugram in terms of order dated 25.07.2022 passed in TA-746/2022. Furthermore, the respondent had also instituted a petition under Section 6 of Hindu Minority and Guardianship Act for custody of the minor child which is also pending in the Family Court, Gurugram.

It has been further submitted that the distance between Gurugram and Palwal is about 60 Km and it will be difficult for petitioner No.1 to prosecute the case at Palwal. She is also having a minor child who is in her care and custody.

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.

The convenience of the wife is always a significant factor to be looked into in such like disputes. Furthermore, it will be appropriate that the present case is also transferred to the Court at Gurugram particularly because the petition under Section 13 of Hindu Marriage Act and the petition under Section 6 of Hindu Minority and Guardianship Act instituted by the respondent are also pending in the Courts at Gurugram.

In these set of circumstances, the present petition is allowed and the aforesaid petition under Section 125 of the Code titled as "Smt. Pushpa

and another Versus Parvesh Kumar” bearing MNT No.169/2021 is transferred from the Family Court at Palwal to the Family Court at Gurugram.

Learned Family Court at Palwal is directed to send the record of the case to the learned Family Court at Gurugram forthwith and the petitioner is directed to appear before the Family Court, Gurugram within a period of 01 month from today.

The aforesaid order has been passed without issuance of notice to the respondent to avoid any unnecessary delay. However, the respondent shall be at liberty to seek revival of the petition within a period of three months in the event, he is aggrieved and serious prejudice has been caused to him.

In view of the above, the present petition stands disposed of.

14.09.2022
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(VIVEK PURI)
JUDGE

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

