

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

TA-449-2020 (O&M)
Date of decision: 16.08.2022

Shaveta

....Petitioner

Vs.

Vinay Rajan

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Vaibhav Narang, Advocate
for the petitioner.

Mr. Sanjay Majithia, Sr. Advocate with
Mr. Vinay Gaur, Advocate
for the respondent.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for transfer of the petition filed by the respondent-husband under Section 9 of the Hindu Marriage Act, pending before the Family Court, Hoshiarpur to the competent Court of jurisdiction at Amritsar.

Learned counsel for the petitioner has argued that the petitioner is presently residing in her parental home at Amritsar and she has already instituted two proceedings at Amritsar; one under Section 12 of Protection of Women from Domestic Violence Act; and second under Section 13 of

Hindu Marriage Act. It is further submitted that since the petition under Section 13 of Hindu Marriage Act filed by the petitioner-wife is pending at Amritsar, the petition under Section 9 of Hindu Marriage Act filed by the respondent-husband may be transferred to Amritsar, so that both these petitions are decided together. It is further submitted that the petitioner is facing great difficulty in prosecuting the petition filed by the respondent, as there is a distance of about 110 kms from Amritsar to Hoshiarpur.

Learned counsel has further contended that the petitioner is having a minor child, who is living in her care and custody and she is facing difficulty to defend the case, as she has to travel from Amritsar to Hoshiarpur.

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 has further relied upon **N.C.V. Aishwarya Vs. A.S. Saravana Karthik Sha, 2022 Live Law (SC) 627**, wherein the Hon'ble Supreme Court held as under: -

“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.

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 senior counsel for the respondent has submitted that the petitioner left the matrimonial home without any rhyme and reason, only under the influence of her parents.

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.

Be whatsoever, this Court is not to look into the merits of the case and only the grounds for transfer are to be seen, which go in favour of the petitioner, as two litigations are already pending at Amritsar and considering the fact that the petitioner-wife will have to bear the litigation expenses and transportation expenses and in view of the judgments in **Sumita Singh's** case (supra), **Rajani Kishor Pardeshi's** case (supra) and **N.C.V. Aishwarya'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 9 of the Hindu Marriage Act, pending before the Family Court, Hoshiarpur will be transferred to the competent Court of jurisdiction at Amritsar.*
- 2. The District Judge, Amritsar will assign the said petition to the competent Court of jurisdiction.*
- 3. The Family Court, Hoshiarpur is directed to transfer all the*

*record pertaining to the aforesaid case to District Judge,
Amritsar.*

*4. The parties are directed to appear before the Family Court,
Amritsar within a period of 01 month from today.*

Present petition is disposed of accordingly.

**[ARVIND SINGH SANGWAN]
JUDGE**

16.08.2022

vishnu

Whether speaking/reasoned : Yes/No

Whether reportable: Yes/No