

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

**TA No.850 of 2021 (O&M)
Date of decision: 13.09.2022**

Sonia

....Petitioner

Versus

Sidharth

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Vivek Goyal, Advocate
for the petitioner.

Mr. R.D. Bawa, Advocate
with Mr. Dipanshu Kapur, Advocate
for the respondent.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this petition is for transfer of the petition filed under Sections 12 and 13 of the Hindu Marriage Act, pending in the Family Court, Kurukshetra to the competent Court of jurisdiction at Panchkula.

Vide order dated 14.09.2021, the following order was passed:-

“This petition has been filed by the wife seeking the transfer of the petition bearing filed under Section 12 & 13 of the Hindu Marriage Act, 1955, bearing No.HMA/161/2020, titled as “Siddarth vs. Sonia”, pending in Family Court, Kurukshetra, to the Court of competent jurisdiction at Panchkula.

The petitioner claims that she got married to the respondent on 22.02.2019. She claims that presently, she is residing with her parents at Panchkula and the distance between Kurukshetra and Panchkula is more than 100 Kms. The petitioner further claims that she cannot properly defend the petition at Kurukshetra.

The learned counsel representing the petitioner places reliance on the following litigations pending in

District Courts, Panchkula.

(i) FIR No.98, dated 19.03.2020, at Police Station Chandimandir, District Panchkula.

(ii) Under Section 125 Cr.P.C.

(iii) Under Section 12 of the Domestic Violence Act, 2005.

The learned counsel contends that it will be very difficult for the petitioner to travel on each date of hearing.

Notice of motion for 25.10.2021.”

Counsel for the petitioner has argued that on account of a matrimonial discord, the respondent/husband has filed the petition under Sections 12 and 13 of the Hindu Marriage Act, as a counter-blast, before the Principal Judge, Family Court, Kurukshetra.

Counsel for the petitioner has also argued that on account of a petition filed by the respondent/husband, the petitioner is facing great difficulty in prosecuting the said case as there is a distance of about 92 Kms from Panchkula to Kurukshetra.

Counsel for the petitioner has relied upon the judgments **“Sumita Singh vs Kumar Sanjay”**, 8502 SC 396 and **“Rajani Kishor Pardeshi vs Kishor Babulal Pardeshi”**, 8505(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.”*

Counsel for the petitioner has also relied upon the judgment **“N.C.V. Aishwarya vs A.S. Saravana Karthik Sha,”** 2022

Live Law (SC) 627, wherein the Hon'ble Supreme Court has observed 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.”

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.

Reply on behalf of the respondent has been filed in which the facts as well as pendency of other petitions is not disputed, however, it is submitted that the brothers of the petitioner have

physically attacked the respondent/husband at his residence and in this regard, he has given a complaint.

Counsel for the respondent has argued that the respondent has also filed CRWP No.2348 of 2020, before this Court for protection of his life and liberty, which was disposed of vide order dated 03.03.2020, granting liberty to the petitioner to move an appropriate application before the SHO of the concerned Police Station. It is also submitted that thereafter, the police after investigation submitted a Kalendra under Section 182 IPC against the petitioner and the petitioner again has filed a petition i.e. CRM-M No.33094 of 2021, for quashing of the said Kalendra which is pending before this Court.

After hearing the counsel for the parties, considering all the facts and circumstances of the case and in view of 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)***, ***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 Sections 12 and 13 of the Hindu Marriage Act, pending before the Family Court, Kurukshetra will be transferred to the competent Court of jurisdiction at Panchkula.*
- 2. The District Judge, Panchkula, will assign the said petition to the competent Court of jurisdiction.*
- 3. The Family Court, Kurukshetra is directed to transfer all the record pertaining to the aforesaid case to District Judge, Panchkula.*

- 4. *The parties are directed to appear before the trial Court, Panchkula, within a period of 01 month from today.*
- 5. *The Family Court, Panchkula will make all endeavour to refer the case before the Mediation and Conciliation Centre for exploring the possibility of some amicable settlement between the parties.*
- 6. *The Court concerned, where the litigation pending between the parties, will accommodate them with one date in one calendar month.*

Disposed of.

(ARVIND SINGH SANGWAN)
JUDGE

13.09.2022

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