

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

217

1. TA No. 593 of 2019
Date of decision : 4.8.2022

Harpreet Kaur**Petitioner**

Vs.

Inderjit Singh**Respondent**

2. TA No. 435 of 2021

Harpreet Kaur and another**Petitioners**

Vs.

Inderjit Singh**Respondent**

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. J.S. Mundi, Advocate, for the petitioners

Mr. B.S. Rana, Advocate, for the respondent

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in these petitions (TA No. 593 of 2019) is for transfer of the petition filed by the respondent-husband under Section 9 of the Hindu Marriage Act, pending before the Family Court, Moga and (in 435 of 2021) for transfer of civil suit No. CS/95/2021 titled as Inderjit Singh v. Harpreet Kaur, pending before the Civil Judge (Senior Division), Moga to the competent Court of jurisdiction at Barnala.

Learned counsel for the petitioner submits that in another connected matter between the parties bearing TA No. 899 of 2021, vide order dated 1.11.2021, the petition filed under Section 13 of the Hindu Marriage Act, 1955 already stands transferred. The operative part of the order reads as under:

“Learned counsel for the petitioner would contend that presently the petitioner is residing with her parents at Barnala and that she has to

travel a distance of 70 kms in order to attend the proceedings before the Family Court, Moga. It is further the contention of learned counsel for the petitioner that two cases filed by the petitioner under Section 125 CrPC and Section 12 of the Domestic Violence Act, 2005, respectively, are already pending in District Courts at Barnala.

Learned counsel for the respondent has contended that the distance is hardly 70 kms and it is not difficult for the petitioner to travel to the Family Court, Moga and in any case she is not required to be present there on each and every date.

I have heard learned counsel for the parties.

In view of the above and keeping in mind the fact that the petitioner has to travel 70 kms to the Family Court, Ludhiana and two cases filed by her under Section 125 CrPc and Section 12 of the Domestic Violence Act, 2005, respectively, are already pending in the District Court at Barnala, I deem it appropriate to allow the present petition and to transfer the petition filed by the respondent-husband under Section 13 of the Hindu Marriage Act, 1955 bearing HMA No.353 of 2021 titled as “*Inderjit Singh Vs. Harpreet Kaur*” pending before the Court of Principal Judge, Family Court, Moga to the Court of competent jurisdiction at Barnala.

The records of the case shall be sent by the concerned Court to the Court of learned District Judge, Barnala and the parties shall appear there on 07.01.2022 at 10.00 a.m.”

Learned counsel has also 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 counsel for the respondent has no objection in transfer of the cases.

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 from her place of residence as well as bearing of the litigation charges and

travelling expenses.

After hearing the counsel for the parties, 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 and since as per the report of the Mediator, no amicable settlement could be arrived at between the parties and this petition is pending since the year 2019 and the trial Court was directed to adjourn the case beyond the date fixed by this Court, both these petitions are allowed subject to the following conditions:

- 1. The petition filed under Section 9 of the Hindu Marriage Act, pending before the Family Court at Moga and the civil suit bearing No. CS/95/2011 titled as Inderjit Singh v. Harpreet Kaur, pending before the Civil Judge (Senior Division), Moga, will be transferred to the competent Court of jurisdiction at Barnala.*
- 2. The District Judge, Barnala will assign the said cases to the competent Court of jurisdiction.*
- 3. The District Judge, Moga is directed to transfer all the record pertaining to the aforesaid cases to District Judge, Barnala.*
- 4. The parties are directed to appear before the District Judge, Barnala within a period of 01 month from today.*

Present petitions are disposed of accordingly.

A photocopy of this order be placed on the file of the connected matter.

(ARVIND SINGH SANGWAN)
JUDGE

4.8.2022
Ashwani

Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No