

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

**TA No.872 of 2021 (O&M)
Date of decision: 14.12.2022**

Madhu

...Petitioner

v

Kumar Gaurav

...Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Ms. Alisha Soni, Advocate for the petitioner.

None for the respondent.

NIDHI GUPTA, J.(ORAL)

1. Prayer in this petition filed by petitioner wife is for transfer of the petition filed by respondent-husband under Section 13 of the Hindu Marriage Act, 1955 (Annexure P1), titled "Kumar Gaurav vs. Madhu" pending in the Court of Principal District Judge, Family Court, Ferozepur to a court of competent jurisdiction at Panipat.

2. Learned counsel for the petitioner, inter alia, submits that:

- i) that the marriage between the parties was solemnised on 02.12.2018 according to Hindu rites and rituals.
- ii) that no child was born out of the wedlock.
- iii) that the petitioner is living with her sister at Panipat as her parents have been expired.
- iv) that the petitioner has no source of income.
- v) that the distance between her place of residence and place of proceedings is 350 kms. (one side)
- vi) that the parties are living separately since 16.03.2021.
- vii) that the petitioner has also filed petition under Section 125 Cr.P.C.; complaint under 12 of the Protection of Women from Domestic Violence Act, 2005 at Panipat; and FIR No.382 dated 24.05.2021 under

Sections 406, 498-A, 506 and 34 IPC at Women Police Station, Panipat.

3. Notice was issued in the matter on 20.09.2021. Office report shows that service has been effected upon the respondent through his counsel before the trial Court. Though respondent has been served, yet no one has appeared on his behalf, therefore, he is proceeded against ex-parte.

4. I have heard learned counsel for the petitioner.

5. The legal position in such like cases as the present one, is well established. In this regard, judgment of the Hon'ble Supreme Court rendered in **N.C.V. Aishwarya vs A.S. Saravana Karthik Sha," 2022 Live Law (SC) 627**, is most relevant wherein the Hon'ble Supreme Court has held 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.”

6. Further reliance can be placed upon the judgments in **“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.”

7. Even this Court in number of cases has followed the aforesaid principle of law. Accordingly, 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.

8. After hearing the learned counsel for the petitioner 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 deems it appropriate to allow the present petition, subject to the following conditions:-

- a) The petition filed by respondent-husband under Section 13 of the Hindu Marriage Act, 1955 (Annexure P1), titled “Kumar Gaurav vs. Madhu” pending in the Court of Principal District Judge, Family Court, Ferozepur is transferred to a court of competent jurisdiction at Panipat.

b) The Id. District Judge, Ferozepur is directed to transfer complete record pertaining to the aforesaid case to District Judge, Panipat.

c) The parties, through their counsel, are directed to appear before the District & Sessions Judge, Panipat on 20.01.2023.

d) The District Judge, Panipat will assign the said petition to the Court of competent jurisdiction.

9. The concerned Court at Panipat 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.

10. The Court concerned, where the litigation pending between the parties, will accommodate them with one date in one calendar month.

Disposed of.

14.12.2022

ashok

(Nidhi Gupta)
Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No