

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

TA No. 901/2021(O&M)

Date of decision: 10/11/2022

Sonali

.....Petitioner

v

Nohar Chand

.....Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr.Satbir Gill,Advocate for the petitioner.

Mr. BS Jattana, Advocate for the respondent.

Nidhi Gupta, J.(Oral)

1. Prayer in this petition filed by petitioner wife is for transfer of petition u/s 13 of the Hindu Marriage Act, filed by the respondent, bearing HMA/154/2021 titled Nohar Chand v Sonali from the Court of Principal Judge, Family Court, Budhlada to a court of competent jurisdiction at Sirsa.

2. Learned counsel for the petitioner inter alia submits:

i) that the marriage between the parties was solemnised on 5.12.2012 according to Hindu rites and rituals. One male child named Chanderdeep was born out of this wedlock who is living with the respondent.

ii)that at the time of marriage sufficient dowry was given by the parents of the petitioner but soon after the marriage the respondent and his family members started taunting,

harassing and beating the petitioner for bringing less dowry.

iii) that the respondent turned petitioner out of her matrimonial home after snatching the minor child and imputing allegations of her having illicit relations with someone.

iv) that till date petitioner has not initiated any proceedings against the respondent with a hope that good sense will prevail upon the respondent.

v) that now respondent has filed a petition under Section 13 of the HMA in the Courts at Budhlada.

vi) that the distance between her place of residence and Court at Budhlada is around 80 kms.

vii) that petitioner has no source of income and being a lady she is unable to attend the day to day proceedings at Budhlada on her own.

viii) that petitioner apprehends danger at the hands of respondent and his family as in the past also she was maltreated by the respondent during her stay at Bhiwani.

3. It is inter alia on these grounds that petitioner prays for transfer of the case, as detailed in para 1 above.

4. On the other hand learned counsel for the respondent has opposed this petition and inter alia contended that petitioner has illicit relations with one Navdeep and referred to Whatsapp chat between the two.

5. I have heard learned counsel for the parties.

6. 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.”

7. 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.”

8. 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.

9. After hearing the learned counsel for the parties 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 petitioner, detailed in para 1 above, is transferred from Budhlada to a Court of competent jurisdiction at Sirsa.

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

c) The parties, through their counsel, are directed to appear before the District & Sessions Judge, Sirsa on 12.12.2022.

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

10. The concerned Court at Sirsa 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.

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

Disposed of.

10/11/2022
Joshi

(Nidhi Gupta)
Judge