

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

**TA No.481 of 2020 (O&M)
Date of decision: 23.08.2022**

Mamta and others

....Petitioners

Versus

Balkar Singh

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. K.S. Malik(I), Advocate
for the petitioners.

Mr. Rishu Mahajan, Advocate
for the respondent.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this petition is for transfer of the Civil Suit No.2497 of 2019 titled as "Balkar Singh vs Mamta and others", pending before the Civil Judge (Sr. Division), Jalandhar to the competent Court of jurisdiction at Rohtak.

Counsel for the petitioners has argued that the petitioner claiming herself to be the wife of the respondent has filed a petition under Section 125 Cr.P.C. as well as a complaint under Sections 498-A, 406, 377, 354, 506, 376, 415 and 420 IPC and a complaint under Section 12 of the Domestic Violence Act, which are pending at Rohtak.

Counsel for the petitioners has further submitted that the respondent/husband has filed the petition under Section 9 of the Hindu Marriage Act, as a counter-blast, before the Principal Judge, Family Court, Jalandhar.

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 360 Kms from Rohtak to Jalandhar.

Counsel for the petitioners 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 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.

Counsel appearing for the respondent submits that the respondent never admitted it to be a case of a valid marriage, however, both of them were residing together in a live-in relationship and since the petitioner has involved the respondent/husband in a false litigation, the civil suit has been filed at Jalandhar.

After hearing the counsel for the parties, considering the fact that it is candid of the petitioner that she is the married wife of the respondent and the marriage took place on 11.11.2018 at Karnal, though, this fact is disputed and denied by the respondent and also 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 Civil Suit No.2497 of 2019 titled as "Balkar Singh vs Mamta and others", pending before the Family Court, Jalandhar will be transferred to the competent Court of jurisdiction at Rohtak.*
2. *The District Judge, Rohtak, will assign the said petition to the competent Court of jurisdiction.*
3. *The Family Court, Jalandhar is directed to transfer all the record pertaining to the aforesaid case to District Judge, Rohtak.*
4. *The parties are directed to appear before the trial Court, Rohtak, within a period of 01 month from today.*
5. *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

23.08.2022

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No