

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

TA-937-2021 (O&M)
Date of decision: 20.07.2022

Jyoti

....Petitioner

Vs.

Anil

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Ashwani Gaur, Advocate
for the petitioner.

Ms. Sonia Kaushik, Advocate
for the respondent.

ARVIND SINGH SANGWAN, J. (Oral)

CM-8340-CII-2022

For the reasons stated in the application, same is allowed and
Annexures P-3 to P-5 are taken on record.

CM stands disposed of.

TA-937-2021

Prayer in this petition is for transfer of the petition filed by the
respondent-husband under Section 25 of the Guardian and Wards Act, 1890
read with Section 6 of Hindu Minority and Guardianship Act, 1956, pending
before the Family Court, Jind to the competent Court of jurisdiction at

Panipat.

It is admitted case that out of the matrimonial discord, some litigations are pending between the parties and a male child namely Ayaan Sharma was born on 01.01.2013, which is now residing in care and custody of the petitioner at Panipat.

Learned counsel for the petitioner has argued that the petitioner was turned out of her matrimonial home by giving beating and on that account, an FIR No.817 dated 08.12.2021 under Sections 406, 498-A, 323, 341 IPC was got registered at Police Station Panipat City against the respondent-husband and his family. It is further submitted that in terms of Section 9 of the Guardian and Wards Act, where the child resides, jurisdiction lies there. It is also submitted that on account of aforesaid petition filed by the respondent-husband, the petitioner is facing great difficulty in prosecuting the said case, as there is a distance of about 70 kms from Panipat to Jind.

Learned counsel has further contended that the petitioner is having a minor child, who is living in her care and custody and she is facing difficulty to defend the case, as she has to travel from Panipat to Jind.

Learned counsel 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 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 for the respondent has filed the reply on behalf of the respondent and has raised an objection that two cross-FIRs i.e. FIRs No.426 and 414 were registered in Police Station City Jind with regard to scuffle, which took place between the parties and therefore, the present petition seeking transfer of the case be dismissed.

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 fro from her place of residence as well as bearing of the litigation charges and travelling expenses.

After hearing the counsel for the petitioner and after going through facts and circumstances of the case, considering the fact that the petitioner-wife will have to bear the litigation expenses and transportation expenses and also in view of the fact that the minor child is living in care and custody of the petitioner at Panipat and in view of the judgments in **Sumita Singh’s** case (supra) and **Rajani Kishor Pardeshi’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 Section 25 of the of the Guardian and Wards Act, 1890 read with Section 6 of Hindu Minority and Guardianship Act, 1956, pending before the Family Court, Jind will be transferred to the competent Court of jurisdiction at Panipat.*
2. *The District Judge, Panipat, will assign the said petition to the competent Court of jurisdiction.*
3. *The Family Court, Jind is directed to transfer all the record pertaining to the aforesaid case(s) to District Judge, Panipat.*
4. *The parties are directed to appear before the District Judge, Panipat within a period of 01 month from today.*

Present petition is disposed of accordingly.

**[ARVIND SINGH SANGWAN]
JUDGE**

20.07.2022

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Whether speaking/reasoned : Yes/No

Whether reportable: Yes/No