

In the High Court for the States of Punjab and Haryana at
Chandigarh

CRM-M-37403-2022

Date of Decision: August 23, 2022

Ashish Gupta

... Petitioner

Versus

Anjali Gupta @ Rimmy Gupta

... Respondent

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Bhanu Pratap Singh, Advocate,
for the petitioner.

Vivek Puri, J.

By way of present petition under Section 407 read with Section 482 of the Code of Criminal Procedure (for short 'Code'), the petitioner has sought the transfer of petition No. MNT125/1812/2019, dated 4.05.2019, titled as "Anjali Gupta vs. Ashish Gupta", filed under Section 125 of the Code from the Court of learned Principal Judge, Family Court, Ludhiana to the Court of competent jurisdiction at Hoshiarpur.

Learned counsel for the petitioner contends that the marriage of the parties was solemnized on 15.08.2010 and a son has been born from the wedlock on 14.12.2016.

The matrimonial dispute has cropped up between the parties. The respondent has instituted a petition under Section 125 of the Code at Ludhiana for enforcement of her claim for maintenance. Learned counsel further submits that the petitioner has to look after the minor child and his aged parents, who are residing at Hoshiarpur. Consequently, he has sought transfer of the aforesaid petition to the Court of competent jurisdiction at Hoshiarpur. Learned counsel for the petitioner has also placed reliance upon a decision of Madhya Pradesh High Court rendered in **Smt. Harsha Sharma vs. Rakesh Sharma, M.C.C. No. 288/2022** in which it has been observed that the convenience of husband has to be given more weightage as he is taking care of two minor sons.

It may be mentioned here that besides the petition under Section 125 of the Code, the respondent had also initiated proceedings under the Protection of Women from Domestic Violence Act in the Court at Ludhiana. A criminal case under Section 498-A IPC is also pending in the Court at Ludhiana and the same is fixed for prosecution evidence.

Learned counsel for the petitioner submits that the complaint under the provisions of Protection of Women from Domestic Violence Act was prosecuted at Ludhiana and the same has been dismissed.

The ratio of **Smt. Harsha Sharma (supra)** is distinguishable from the facts of the present case. In the said case, the respondent-husband was having two children and had to cover a distance of 250 kms. to defend the proceedings. However, it has not been disputed that the distance between Ludhiana and Hoshiarpur is about 75 kms. In these days of fast and convenient means of transport, it cannot be said that the distance will render any inconvenience or hardship to the petitioner in defending the proceedings in the Courts at Ludhiana, particularly when the other cases between the parties are also pending at that place.

It may be **mentioned** here that the proceedings under Protection of Women from Domestic Violence Act initiated against the respondent were defended by him in the Court at Ludhiana and he is also defending the criminal case registered under Section 498-A IPC. Merely because the son of the parties is residing with the respondent, it cannot be construed as a circumstance to conclude that appearance in the Courts at Ludhiana will render hardship and extreme inconvenience to the petitioner particularly because he is appearing and defending the other cases in the Courts at Ludhiana. Moreover, in a recent decision rendered in **Civil appeal No. 5218 of 2022** titled as “**Ruchi Rawat vs. Principal Judge, Family Court Etah & Anr.**”, decided on

05.08.2022, the Hon'ble Supreme Court has observed a following:-

*“4. It is well-settled that in matrimonial matters generally, it is wife's convenience which must be looked at while considering the transfer. In **N.C.V. Aishwarya v. A.S. Saravana Karthik Sha (Civil Appeal No. 4894 of 2022, disposed of on 18.07.2022)**, it was held as under:-*

“9. The cardinal principal 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 socio-economic paradigm in the Indian society, generally, it is the wife's convenience which must be looked at while considering transfer.”

In these set of circumstances, it is neither deemed appropriate nor just to transfer the petition under Section 125 of the Code from the Court at Ludhiana to Hoshiarpur.

In view of the aforesaid reason, instant petition being devoid of merit, is dismissed.

August 23, 2022

vkdl

(Vivek Puri)
Judge

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No