

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

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**TA-958-2021 (O&M)
Date of decision: 27.09.2022**

Pooja Mehta**...Petitioner**

Versus

Rohit Arora**...Respondent****CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN**

Present:- Mr. Shakti Mehta, Advocate
for the petitioner.

Mr. Nakul Sharma, Advocate
for the respondent.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for transfer of the petition filed by the respondent-husband under Section 13 of the Hindu Marriage Act, 1955, pending before the Family Court, Jalandhar to the competent Court of jurisdiction at Patiala.

Learned counsel for the petitioner-wife submits that the marriage between the parties was solemnized on 02.09.2018 and one female child was born on 15.06.2019 out of the said wedlock, who is living in the care and custody of the petitioner.

It is further submitted that later on, the petitioner was turned out of the matrimonial home and she has filed a petition under Section 125 Cr.P.C. at Patiala for grant of maintenance to herself as well as her minor daughter. The petitioner has also filed a complaint under Section 12 of the Protection of Women from Domestic Violence Act, 2005, which is also pending before the Court of SDJM, Samana, Patiala.

Reply, filed on behalf of the respondent-husband, is on record, wherein it is stated that apart from the petition filed by him under Section 13 of the Hindu Marriage Act, he has also filed a civil suit for recovery of amount on account of the damages suffered by the respondent due to the defamation caused by the petitioner-wife.

A perusal of the said plaint would show that very cleverly and intelligently, no fixed amount is claimed as damage, to avoid ad-valorem court fee, therefore, the court duty of only Rs. 25/- is affixed on the same to avoid rejection of the plaint.

On the face of it, this suit is nothing but an offshoot of the matrimonial discord between the parties and the same has been filed just to harass the petitioner-wife and her family members.

A perusal of the reply further reflects that the respondent-husband has also filed a criminal complaint under Section 500 IPC levelling allegations that when a meeting/Panchayat was convened on 22.02.2021 in a hotel, as admittedly the parties are separated on 15.06.2019, accused persons i.e. the petitioner and her family members have called him impotent and, thus, they have defamed him.

On the face of it, this complaint is filed just to harass the petitioner with the allegations regarding an incident, which has allegedly taken place at the time when they were residing separately and with regard to a meeting, which was convened for sorting out the dispute.

The parents of the respondent-husband, namely Ashok Kumar and Anuradha Arora, have also filed a suit for permanent injunction, titled as ***Ashok Kumar and another vs. Pooja Mehta***, restraining the present

petitioner/defendant from interfering into the peaceful possession of the plaintiffs over the matrimonial house in dispute. In this suit, it is mentioned that the petitioner was married with the son of the plaintiffs on 02.09.2018 and a daughter was born out of this wedlock and the petitioner has left the matrimonial home on 17.09.2020. It is further stated in para 5 of the plaint that both, petitioner Pooja Mehta and respondent Rohit Arora, have joined hands with each other and they are trying to take forcible possession of part of the house, for which a decree of injunction be granted.

Again, on the face of it, the aforesaid suit is an offshoot of the matrimonial discord between the petitioner and respondent and the said suit is nothing but a pressure tactic to harass the petitioner as both respondent-husband and the father-in-law are taking contradictory stand in their respective cases.

Learned counsel for the petitioner has stated at bar that no maintenance is paid either to petitioner or her minor daughter.

On a Court query, learned counsel for the respondent pleads ignorance about this fact.

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 petitioner has further relied upon **2022 Live Law (SC) 627 N.C.V. Aishwarya vs. A.S. Saravana Karthik Sha**, wherein 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.”

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 parties, considering the fact that if the aforesaid petition is not transferred, the petitioner-wife will have to bear the litigation expenses and transportation expenses and also in view of the ratio of law laid down by Hon'ble Supreme Court in **Sumita Singh's** case (supra), **Rajani Kishor Pardeshi's** case (supra) and **N.C.V. Aishwarya's** case (supra), this Court deems it appropriate to allow the present petition, with the following directions:-

- (i) *The petition filed under Section 13 of the Hindu Marriage Act, pending before the Family Court, Jalandhar will be transferred to the competent Court of jurisdiction at Patiala.*
- (ii) *The District Judge, Patiala will assign the said petition to the competent Court of jurisdiction.*
- (iii) *The Family Court at Jalandhar is directed to transfer all the record pertaining to the aforesaid case to District Judge, Patiala.*
- (iv) *The parties are directed to appear before the trial Court at Patiala within a period of 01 month from today.*
- (v) *The Courts concerned, where the cases are pending between the parties, will accommodate them with one date in a calendar month.*

Taking a note of the fact that three other proceedings, which have been filed either by the respondent-husband or his parents are also pending adjudication before the Courts at Jalandhar, i.e. a civil suit filed by the respondent-husband, titled as **Rohit Arora vs. Pooja Mehta and others**,

Criminal Complaint filed under Section 500 IPC, titled as ***Rohit Arora vs. Pooja Mehta and others*** as well civil suit, titled as ***Ashok Kumar and another vs. Pooja Mehta*** being an offshoot of the matrimonial discord between the petitioner and respondent and also in view of the contrary pleadings taken by the respondent as well as his parents in their respective cases, this Court, by exercising its *suo motu* powers, directs that all the aforesaid three litigation be also transferred to the competent Court of jurisdiction at Patiala.

27.09.2022
Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No