IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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TA No. 509 of 2020
Date of decision : 4.8.2022

Ritika **……Petitioner**

Vs.

Mukesh **……Respondent**

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Lajpat Sharma, Advocate, for the petitioner.

None 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 9 of the Hindu Marriage Act, pending before the Family Court, Rohtak to the competent Court of jurisdiction at Panipat.

Learned counsel for the petitioner submits that the petitioner is residing at Panipat and is totally dependent upon her parents. On account of matrimonial discord, she has lodged an FIR under Sections 323, 34, 354, 377, 498A and 506 IPC against the respondent and his family members at Panipat. The petitioner has also instituted a case under the provisions of Domestic Violance Act. She is facing great difficulty in prosecuting the petition filed by the respondent, as there is a distance of about 80 kms from Panipat to Rohtak.

As per the office report, the respondent is served but none has appeared on his behalf.

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

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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 has further relied upon **N.C.V. Aishwarya Vs. A.S. Saravana Karthik Sha, 2022 Live Law (SC) 627,** wherein the Hon'ble Supreme Court held as under: -

> *"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.*
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> *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

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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, considering the fact that the petitioner-wife will have to bear the litigation expenses and transportation expenses and in view of the judgments in **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 petition filed under Section 9 of the Hindu Marriage Act, pending before the Family Court, Rohtak 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 District Judge, Rohtak is directed to transfer all the record pertaining to the aforesaid case 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

4.8.2022
Ashwani

Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No

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