

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

TA-956-2021 (O&M)
Date of decision: 26.07.2022

Shifali Mehta

....Petitioner

Vs.

Gourav Puri

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. A.S. Saini, 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, Amritsar to the competent Court of jurisdiction at SAS Nagar (Mohali).

While issuing notice of motion, following order was passed by this Court on 04.10.2021: -

“This petition has been filed by the wife seeking the transfer of the petition filed under Section 13(1)(i)(ia)(ib) of the Hindu

Marriage Act, 1955, bearing case No.HMA/984/2021, titled as "Gourav Puri Vs. Shifali Mehta", pending in the Family Court, at Amritsar, to the Court of competent jurisdiction at SAS Nagar, Mohali.

The petitioner claims that she got married to the respondent on 10.12.2009 and they have been blessed with a female child. She claims that presently, she is residing with her parents at SAS Nagar, Mohali, and the distance between Amritsar and Mohali, is more than 220 Kms. The petitioner further claims that she cannot properly defend the petition at Amritsar.

The learned counsel representing the petitioner places reliance on the following litigations pending in District Courts, at SAS Nagar, Mohali:-

(i) Under Section 9 of the Hindu Marriage Act, 1955, bearing case No.HMA/513/2021, titled as "Shifali Mehta Vs. Gourav Puri".

(ii) Under Section 125 Cr.P.C., bearing case No.MNT/125/336/2021, titled as "Shifali Mehta Vs. Gourav Puri".

The learned counsel contends that it will be very difficult for the petitioner to travel on each date of hearing."

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.*”

As per office report, respondent is served through the counsel representing him before the Family Court, however, there is no representation on his behalf.

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, 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) 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 9 of the Hindu Marriage Act, pending before the Family Court, Amritsar will be transferred to the competent Court of jurisdiction at SAS Nagar (Mohali).*
2. *The District Judge, SAS Nagar (Mohali) will assign the said petition to the competent Court of jurisdiction.*
3. *The Family Court, Amritsar is directed to transfer all the record pertaining to the aforesaid case(s) to District Judge, SAS Nagar (Mohali).*
4. *The parties are directed to appear before the Family Court, SAS Nagar (Mohali) within a period of 01 month from today.*

Present petition is disposed of accordingly.

[ARVIND SINGH SANGWAN]
JUDGE

26.07.2022

vishnu

Whether speaking/reasoned : Yes/No

Whether reportable: Yes/No