

VS

Parambir Singh Malhi @ Parambir Singh

.....Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. P.K.S. Phoolka, Advocate
for the petitioners.

Mr. Amit Arora, Advocate
for the respondent.

NIDHI GUPTA, J.(Oral)

This common order shall dispose of all the following
four Transfer Petitions as the issues and parties are inter-connected :-

- A) **T.A. No.540 of 2022-** in this petition, the petitioner-wife is seeking transfer of the petition under Section 13 of the Hindu Marriage Act, 1955, bearing HMA/1714/2021, titled as 'Parambir Singh vs. Gurmeet Kaur', pending in the Court of learned Family Court, Amritsar to the Court of competent jurisdiction at Bathinda.
- B) **T.A. No.1003 of 2022-** in this petition, petitioner No.1-Gurmeet Kaur (wife of the respondent) and petitioner No.2-Hardeep Singh (brother of petitioner No.1 and brother-in-law of the respondent) are seeking transfer of the Civil Suit No.3084 of 2021, titled as 'Parambir Singh vs. Gurmeet Kaur and another', pending before the Civil Judge (Sr. Divn.), Amritsar for mandatory injunction directing the respondents to hand over the possession of the Car bearing registration No.PB-65-AB-8636 to the respondent/defendant and further restraining the defendants from using

the said car for their personal use and not to hand over the possession of the same to anybody else, to the Court of competent jurisdiction at Bathinda.

C) **T.A. NO.1024 of 2022-** in this petition, petitioner No.1-Hardeep Singh (brother of petitioner No.2 and brother-in-law of the respondent) and petitioner No.2-Gurmeet Kaur (wife of the respondent) are seeking transfer of the Civil Suit No.3534 of 2021, titled as 'Parambir Singh vs. Hardeep Singh and another' pending in the Court of the Civil Judge (Sr. Divn.), Amritsar, for mandatory injunction to hand over laptop make Dell Company purchased vide invoice No.2381/19-20 dated 12.2.2020, documents lying in possession of defendants at House No.C-50, Guru Nanak Dev University Campus, Amritsar like his passport No.S4575396, Adhaar Card, original degrees and certificates etc., to the Court of competent jurisdiction at Bathinda; and

D) **T.A. No.997 of 2022-** in this petition, the petitioner No.1-Sukhdev Singh (father-in-law of the respondent and petitioner No.2-Hardeep Singh (brother-in-law of the respondent) are seeking transfer of the Civil Suit No.3086 of 2021, titled as 'Parambir Singh vs. Hardeep Singh and another', pending in the Court of the Civil Judge (Sr. Divn.), Amritsar, for causing defamation, harassment and humiliation to the plaintiff by giving defamatory remarks against the plaintiff publicly with a view to damage his life, reputation and status in the public at large and with an intent to indulge him in false criminal cases, to the Court of competent jurisdiction at Bathinda.

For the sake of convenience, the facts are being taken up from Transfer Petition No.540 of 2022.

1. Prayer in this petition filed by petitioner-wife is for transfer of the petition filed by respondent-husband under Section 13 of the Hindu Marriage Act,1955 (for short 'the Act') titled "Parambir Singh vs. Gurmeet Kaur" pending in the Court of Principal Judge, Family Court, Amritsar to a Court of competent jurisdiction at Bathinda.

2. Learned counsel for the petitioner-wife has contended :-

- i) That the parties were married on 24.1.2008 according to Sikh rites and rituals.
- ii) That three female children were born out of this wedlock, the first one is 12 years of age, second girl child, who was born in December 2016 has unfortunately died and the third girl child is 3 years of age and are in the care and custody of the petitioner.
- iii) That the petitioner-wife is living separately from the respondent-husband since 27.10.2019 and living with her parents at their mercy at Bhucho Mandi, Bathinda.
- iv) That the petitioner is unemployed, having no source of income and totally dependent upon her parents and the respondent-husband, who is working as Assistant Professor in the Department of Apparel and Textile Technology, Guru Nanak Dev University, Amritsar is not paying anything to her and the daughters towards maintenance.
- v) That the respondent-husband has filed the petition under Section 13 of the Hindu Marriage Act, which is pending before the Principal Judge, Family Court, Amritsar.

- vi) That the proceedings arising out of petitions (1) under Section 125 Cr.P.C.; and (2) under Section 12 of the Protection of Women from Domestic Violence Act, 2005; filed by the petitioner-wife, are pending in the Courts having competent jurisdiction at Bathinda.
- vii) That during the period, when the petitioner was pursuing her PHD Degree from Amritsar University, the respondent gave merciless beatings to her and on the basis of her medical report dated 04.9.2021, DDR No.32 dated 06.09.2021 was registered against the respondent-husband in Amritsar. After completing her Ph.D in May 2022, the petitioner moved to Bathinda.
- viii) That in order to harass and humiliate the petitioner and her family members, the respondent-husband except the petition filed under Section 13 of the Act, titled “Parambir Singh vs. Gurmeet Kaur”, pending in the Court of Principal Judge, Family Court, Amritsar, has filed the following cases :-
 - a) Civil Suit No.3084/2021 dated 26.10.2021 for mandatory injunction directing the defendants Gurmeet Kaur and Hardeep Singh [petitioners here in T.A.1003-2022 being wife and brother-in-law of the plaintiff/respondent] to hand over the possession of the Car of the plaintiff [respondent herein] make Honda City colour white, diesel, bearing Registration No.PB-65-AB-8636 and further restraining the defendants from using the said car for their personal use or handing over the possession of the same to anybody else (annexed as Annexure A-4 with the present petition i.e. T.A.540 of 2022), pending in the Court of Civil Judge (Jr. Divn.), Amritsar;
 - b) Civil Suit bearing No.3534 of 2021 (annexed as Annexure A-6 with T.A.1024-2022) for mandatory

injunction directing the defendants Hardeep Singh and Gurmeet Kaur [petitioners herein in TA-1024-2022 being brother-in-law and wife of plaintiff/respondent] to hand over laptop make Dell Company purchased vide invoice No.2381/19-20 dated 12.2.2020, documents lying in possession of defendants at House No.C-50, Guru Nanak Dev University Campus, Amritsar like his passport No.S4575396, Adhaar Card, original degrees and certificates etc. detailed in the head-note of the suit in question;

- c) Civil Suit No.3086 of 2021 (annexed as Annexure P-5 with TA-997-2022) for recovery of damages from the defendants Hardeep Singh and Sukhdev Singh [petitioners herein in TA-997-2022 being brother-in-law and father-in-law of the plaintiff/respondent] causing defamation, harassment and humiliation to the plaintiff by giving defamatory remarks against the plaintiff publicly with a view to damage his life, reputation and status in the public at large and with an intent to indulge him in false criminal cases.
- ix) That the distance between place of residence of the petitioner-wife i.e. Bhucho Mandi, Bathinda and the place of proceedings under Section 13 of the Hindu Marriage Act, 1955 filed by the respondent-husband, pending before the Principal Judge, Family Court, Amritsar, is about 200 kilometers on one side.
- x) That there is no proficient male member in the family of the petitioner, who can accompany her to the Court of proceedings at Amritsar as father of the petitioner is old aged and suffering from various ailments and the children are minor and school going.

- xi) That since in all the aforesaid petitions, petitioner-wife, his brother and father are the parties, therefore, petitioners are seeking transfer of the said cases from the Courts at Amritsar to a Court having competent jurisdiction at Bathinda.
3. It is inter alia on these grounds that petitioner prays for transfer of the case, as detailed in para 1 above.
4. Upon notice, respondent has put in appearance through his counsel and controverts the allegations leveled by the petitioners in all petitions.
5. Vide order dated 10.10.2022 passed by Co-ordinate Bench of this Court in TA-540-2022, the matter was sent to the Mediation & Conciliation Center of this Court to explore the possibility of amicable settlement but as per the report of the Mediator dated 21.11.2022, the mediation could not succeed.
6. In response to the petitions, the respondent has filed a common reply and the following grounds have been taken by him to controvert the contents of the petitions :-
- a) That the present petition is liable to be dismissed solely on the ground of concealment and misrepresentation as the petitioner-wife Gurmeet Kaur has wrongly stated in her petition that she is residing at Bathinda, whereas the fact of the matter is that the petitioner Gurmeet Kaur is residing in Amritsar alongwith two minor daughters in the house allotted to the respondent-husband by Guru Nanak Dev University i.e. Quarter No 50-C, Guru Nanak Dev University Complex, Amritsar and their daughter, namely, Amberpreet Kaur is studying in The Millenium School at

Amritsar. The copy of the Certificate issued by the said school is annexed with the reply as Annexure R-1/1.

- b) That the fact that petitioner-wife Gurmeet Kaur is presently residing in Quarter No 50-C, Guru Nanak Dev University Complex, Amritsar can be proved from the complaint filed by her to the Commission of police regarding fear and threat from her in-laws and in the said complaint she has categorically stated that she is residing in the aforesaid house at Amritsar. Thus, it clearly shows that the petitioner has filed the present petition for transfer by stating wrong, misleading facts and by concealing the material facts. Copy of the complaint moved by the petitioner-wife, obtained under the RTI Act, is annexed as Annexure R-1/2.
- c) That further the petitioner Gurmeet Kaur has concealed the material aspect from this Hon'ble Court that the respondent has already approached this Hon'ble Court for transfer of petition under section 125 Cr.P.C, filed by the petitioner-wife Gurmeet Kaur from Bathinda to Amritsar under section 407 Cr.P.C by way of filing CRM-M-184 of 2022 which is pending adjudication before this Court, in which notice of motion has already been issued on 07.1.2022, vide which respondent was directed to deposit Rs.33000/- as litigation expenses, which already stood deposited. The copy of the order dated 7.1.2022 passed by this Court is annexed as Annexure R-1/3.
- d) That further a separate petition for transfer of complaint under Section 12 of Protection of Women from Domestic Violence Act, 2005 from Bathinda to Amritsar by way of filing CRM-M-21530 of 2022 is also filed by the respondent-husband, which is pending adjudication and ordered to be heard alongwith CRM-M-184 of 2022 and thus also fixed for hearing on 28.02.2023.

- e) That the petitioner has given misleading and false facts regarding the present dispute between the parties. The real facts are that the marriage of the parties was solemnized on 24.1.2008 as per Sikh rites and rituals at Bathinda and after the marriage both, the petitioner and respondent, resided together as husband and wife and two children were born out of this wedlock; namely Amberpreet Kaur was born on 1.3.2010 and; Arshnoor Kaur born on 19.4.2019 and both the daughters are at present in the care and custody of petitioner-wife Gurmeet Kaur.
- f) That both the parties are qualified as M.Tech and pursuing Ph.D. The respondent is working as Assistant Professor in Department of Chemistry in Guru Nanak Dev University, Amritsar since 2010 and has been allotted Quarter No 50-C, Guru Nanak Dev University Complex, Amritsar. The dispute arose between the parties in the year 2019 due to interference of the parental family members of the petitioner and accordingly she left the matrimonial house and went to Bathinda and all the efforts on the part of the respondent to reconcile the matter with the petitioner failed and the petitioner-wife instituted a petition under Section 125 Cr.P.C for grant of maintenance before Learned Additional Principal Judge, Family Court at Bathinda, on 13.11.2019. Further the respondent wife also filed petition under Section 12 of Protection of Women from Domestic Violence Act, 2005 before Learned Chief Judicial Magistrate, Bathinda. As all the efforts on the part of the respondent to reconcile the matter with the petitioner failed, the petitioner was constrained to institute the petition under section 9 of Hindu Marriage Act, 1955 for restitution of conjugal rights before learned Additional Principal Judge, Family Court, Amritsar.

- g) That the petitioner moved complaints before Punjab State Women Commission, Punjab State Human Rights Commission and SSP Bathinda with the allegations of dowry, harassment and sexual harassment to his own elder daughter, about which a detailed inquiry was got conducted by SHO Police Station Women cell, Bathinda in which the respondent was found to be innocent and all the allegations leveled were found to be false. Even DSP HQ Bathinda inquired into the allegations and in his detailed report he found all the allegations against the respondent to be false. Thereafter, under the pressure of petitioner wife the inquiry was again marked to SP Headquarter Bathinda and during inquiry proceedings the SP Headquarter Bathinda appointed Dr. Davinder Singh of GNDU Campus to be Mediator in the case and counseling of both the parties was done and thereafter with the intervention of Dr. Davinder Singh, Dr. Amandeep Singh, Dr. Amritpal Singh, Dr. Satnam Singh Del and other colleagues the matter got resolved between the parties and the petitioner wife joined back the company of the answering respondent and the SP Headquarters submitted its report. That the petitioner wife joined back the company of the respondent alongwith two minor daughters at Amritsar in the month of January 2021 and it was agreed between the parties that they will withdraw their respective cases filed against each other. At the time of filing of petitions under Section 125 Cr.P.C and Domestic Violence Act at Bathinda, during the entire period the petitioner-wife was residing in Working Women Hostel, GNDU Campus at Amritsar alongwith her two minor daughters and after the compromise she came back to her house at GNDU Campus itself. In the month of September 2021 again some dispute arose between the parties and due to cruel behavior of the

petitioner-wife, harassment was caused to the respondent. Because of the wrong doings by petitioner-wife's brother Hardeep Singh and father Sukhdev Singh the respondent subjected to defamation, harassment and humiliation and therefore, he forced to leave the company of petitioner-wife, because of which the respondent-husband gone into depression and went to the house of his maternal uncle at Amritsar, and since then is residing there and only. The petitioner-wife alongwith two minor daughters is residing in the allotted house of the respondent i.e. Quarter No 50-C, GNDU Campus, Amritsar. All the stuff of the respondent is left behind in the house allotted to him i.e. Quarter No 50-C, GNDU Campus, Amritsar. It is in these circumstances, the respondent has filed the petition under Section 13 of Hindu Marriage Act for dissolution of marriage by decree of divorce, which is pending adjudication before the Learned Family Court at Amritsar.

- h) That even the car of the respondent make Honda City, white colour, bearing Registration No.PB-65-AB-8636 is in possession of the petitioner-wife and her brother Hardeep Singh and they are neither allowing the respondent-husband to take possession of his car nor even allowing him to enter in his own house, therefore, the respondent-husband has filed a suit for mandatory injunction restraining the petitioner-wife and her brother Hardeep Singh from using the said car and directing her to hand-over the possession of car to the respondent-husband. Even a laptop make Dell and original documents and certificates of the respondent-husband are also wrongfully possessed by the petitioner-wife in furtherance of common intention with her family members, the respondent-husband has also filed another suit in that regard also before the Court below. As the petitioner-wife alongwith her brother Hardeep Singh and father Sukhdev

Singh has caused great mental and physical harassment to the respondent and has lowered his reputation in the eyes of the society, as such, the suit for recovery of damages for causing defamation, harassment and humiliation has also been filed by the respondent which is pending adjudication before Learned Civil Judge, Amritsar. (The complete details of the cases filed by the respondent-husband is given in para 2(viii) of this judgment).

- i) That their daughter-Amberpreet Kaur is studying in Amritsar itself and the petitioner-wife is presently residing in the house, allotted in the name of the respondent, in GNDU campus, thus as such, no cause of action has arisen at Bathinda as both the parties are residing in Amritsar and moreover all other litigation between the parties are pending at Amritsar. The petition u/s 125 Cr.P.C and Domestic Violence Act were filed in the year 2019 at Bathinda and thereafter even the parties reconciled and lived together for almost 8 months i.e. from January 2021 till September 2021. Moreover, there should not be any problem to petitioner Hardeep Singh and Sukhdev Singh to face the cases at Amritsar, and only concocted and baseless reasons are given in their petition for transferring the cases from Amritsar to Bathinda. The only reason to get the aforesaid petitions transferred at Bathinda is only to harass the respondent and being a serving person it will not be possible for the respondent-husband to contest the petitions at Bathinda in an effective manner.

7. I have heard learned counsel for the parties. Clearly, all these cases emanate from the matrimonial discord between the parties.

The legal position in such like cases as the present one, is well established. In this regard, judgment of the Hon'ble Supreme Court rendered in **N.C.V. Aishwarya vs A.S. Saravana Karthik**

Sha,” 2022 Live Law (SC) 627, is most relevant wherein the 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.”

8. Further reliance can be placed upon the judgments in **“Sumita Singh vs Kumar Sanjay”, 2002 SC 396** and **“Rajani Kishor Pardeshivs Kishor Babulal Pardeshi”, 2005(12) SCC 237**, wherein the Hon’ble Supreme Court has 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.”

9. Even this Court in number of cases has followed the aforesaid principle of law. Accordingly, 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 the family condition of the wife, the custody of the minor child, economic condition of the wife, her physical health and earning capacity of the husband and most important the 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.

10. In view of the facts mentioned above and the judgments i.e. **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 deems it appropriate to allow the present petitions, subject to the following conditions:-

- a) The petition filed by respondent-husband under Section 13 of Hindu Marriage Act, 1955, bearing HMA/1714/2021 titled as 'Parambir Singh vs. Gurmeet Kaur', pending in the Court of Principal Judge, Family Court, Amritsar and the cases, details of which have been mentioned in para 2(viii) of this judgment and pending in the respective Courts at Amritsar, are transferred to a Court of competent jurisdiction at Bathinda.
- b) The Id. District Judge, Amritsar is directed to transfer complete record pertaining to the aforesaid cases to District Judge, Bathinda.
- c) The parties are directed to appear before the District & Sessions Judge, Bathinda on 23.1.2023.
- d) The District Judge, Bathinda will assign the said cases to the Court of competent jurisdiction.

11. The concerned Court at Bathinda will make all endeavour to refer the case before the Mediation and Conciliation Centre for exploring the possibility of some amicable settlement between the parties.

12. The Court concerned, where the litigation pending between the parties, will accommodate them with one date in one calendar month.

13. I am supported by the decisions rendered by a Co-ordinate Bench of this Court in **TA No. 1315/2022, Rohini Arora v Nitin Talwar; TA No. 1322 of 2022, Jaswinder Kaur v Gurvinderjeet Singh; and TA No. 1323 of 2022, Usha Rani v Karmajit Singh.**

The petitions are disposed of.

Pending application(s), if any, stand disposed of.

Photocopy of this judgment be placed in the files of connected petitions.

November 30, 2022

Vijay Asija

**(NIDHI GUPTA)
JUDGE**

Whether speaking/reasoned
Whether Reportable

YES/NO
YES/NO