

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

201

TA-1026-2021 (O&M)
Date of decision: 30.09.2022

Sonali Mattu

...Petitioner

Versus

Parmatama Kumar

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Paras Jagga, Advocate
for the petitioner.

Mr. Sahil Puri, Advocate &
Mr. A. S. Salar, Advocate
for the respondent.

ARVIND SINGH SANGWAN, J. (Oral)

While issuing notice of motion on 26.10.2021, the following
order was passed:

“The petitioner is wife of respondent. She has filed this petition under Section 24 CPC for transfer of petition HMA/360 of 2021 filed by respondent under Section 9 of Hindu Marriage Act, titled as 'Parmatama Kumar Versus Sonali Mattu', which is pending in the Court of learned Principal Judge, Family Court, Kapurthala to the Court of competent jurisdiction at Patiala, Camp Court, Nabha. The marriage of petitioner with respondent was solemnized on 12.12.2018.

It is the case of the petitioner that she has been maltreated by respondent and his family members on account of demand of dowry. On 1.4.2019, petitioner was thrown out of matrimonial home. Efforts were being made by respectable persons to resolve the dispute between the families. However, despite assurances, the

behaviour remained unchanged. It is the case of petitioner that even the mother of petitioner had been beaten by respondent when she visited the petitioner at her matrimonial home on 5.7.2020. Even the police had been called. On 25.11.2020, a child was born to petitioner. Since then petitioner is staying at her parental home.

Respondent, with a view to harass the petitioner, has filed a petition under Section 9 of Hindu Marriage Act which is pending before learned Principal Judge, Family Court, Kapurthala. Petitioner is residing at Nabha (Patiala). Kapurthala is at a distance of 160 kms. from the place of residence of petitioner. It is very difficult for the petitioner to attend proceedings at Kapurthala especially when her child is about 2 years.

Notice of motion for 27.1.2022.

Till the next date of hearing, further proceedings in the petition titled as 'Parmatama Kumar Versus Sonali Mattu' filed by respondent under Section 9 of Hindu Marriage Act at Kapurthala shall remain stayed.”

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.”

Learned counsel for the respondent-husband has opposed the prayer of the petitioner-wife.

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 9 of the Hindu Marriage Act, pending before the Family Court, Kapurthala will be transferred to the competent Court of jurisdiction at Nabha, District Patiala.*
- (ii) *The District Judge, Patiala will assign the said petition to the competent Court of jurisdiction.*
- (iii) *The Family Court at Kapurthala 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 Nabha 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.*

30.09.2022

Waseem Ansari(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No