

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

203

**TA-1048-2021 (O&M)
Date of decision: 16.09.2022**

Priya**...Petitioner**

Versus

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

Present:- Mr. Vivek K. Thakur, Advocate
for the petitioner.

None for the respondent.

ARVIND SINGH SANGWAN, J. (Oral)

While issuing notice of motion on 28.10.2021, the following
order was passed:

“Petitioner is the wife of the respondent. She has filed the present petition under Section 24 of the Code of Civil Procedure seeking transfer of the petition under Section 13 of the Hindu Marriage Act, 1955 filed by the respondent, which is pending before the Court of Principal Judge, Family Court, Ludhiana to the Court of competent jurisdiction at District Rupnagar.

The marriage of the petitioner with the respondent is solemnized on 06.05.2020. There is no child from the marriage.

It is case the petitioner that ever since the marriage of the petitioner, she has been harassed, humiliated and even tortured by the respondent and his family members on account of demand of dowry. The respondent did not take care of the petitioner even when she was seriously ill. On 05.02.2021, parents of the petitioner were called and forced to take her with them

and get her treated. Since then the petitioner is residing with her parents.

It is stated that in order to harass the petitioner, the respondent-husband has filed the petition under Section 13 of the Hindu Marriage Act, 1955, which is pending before the Court of Principal Judge, Family Court, Ludhiana. The petitioner is suffering from various ailments and undergoing treatment at PGI, Chandigarh. It is difficult for the petitioner to travel from Rupnagar to Ludhiana to attend the Court proceedings as the distance is more than 75 kms. The petitioner has no independent source of income, she is fully dependent on her parents.

Notice of motion for 02.02.2022.

Till the next date hearing proceedings in the case under Section 13 of the Hindu Marriage Act, 1955 filed by the respondent, which is pending before the Court of Principal Judge, Family Court, Ludhiana, 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.”

Neither any reply is filed nor there is any representation on behalf of the respondent.

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 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, Ludhiana will be transferred to the competent Court of jurisdiction at Rupnagar.*
- (ii) *The District Judge, Rupnagar will assign the said petition to the competent Court of jurisdiction.*
- (iii) *The Family Court at Ludhiana is directed to transfer all the record pertaining to the aforesaid case to District Judge, Rupnagar.*
- (iv) *The parties are directed to appear before the trial Court at Rupnagar 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.*

16.09.2022

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No