

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

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**TA No.1085 of 2021(O&M)
Date of Decision: 06.01.2022**

Poonam

....Petitioner

VERSUS

Surender Tanwar

....Respondent

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Parshant Sethi, Advocate for the petitioner.

Mr. Gopal Soni, Advocate for
Mr. Samar Ahluwalia, Advocate for the respondent.

ALKA SARIN, J. (Oral)

Taken up through video conferencing.

The present petition under Section 24 of the Code of Civil Procedure, 1908 has been filed by the petitioner-wife seeking transfer of the petition filed by the respondent-husband under Section 13 of the Hindu Marriage Act, 1955 (hereinafter referred to as the 'HM Act') titled as "*Surender Tanwar Vs. Poonam*" pending in the Court of Additional Principal Judge (Family Court), Gurugram to the Court of competent jurisdiction at Faridabad.

Learned counsel for the petitioner would contend that presently the petitioner along with her minor child is residing with her mother at Faridabad and in order to defend the case at Gurugram she would have to travel a distance of 40 kms (one way). The petitioner is also stated to be having no independent source of income and is totally dependent upon her parents and, hence, it would not be financially and physically feasible for her to defend her case before the Family Court at Gurugram. It has further been

contended that three cases initiated by the petitioner-wife i.e. (i) under Section 125 of the Code of Criminal Procedure, 1973 (for short 'CrPC'); (ii) under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (for short 'DV Act'); and iii) the proceedings in FIR dated 01.10.2021 registered under Sections 498-A, 406, 377, 406 and 34 IPC, are already pending before the Courts at Faridabad.

Learned counsel appearing on behalf of the respondent has stated that the petition under Section 13 of HM Act was prior in time and hence no case is made out for transfer of the petition.

I have heard learned counsel for the parties.

In the present case, admittedly, the petitioner is staying at Faridabad with her mother and has no independent source of income nor any maintenance or litigation expenses have been paid to the petitioner. Learned counsel for the respondent is further not in a position to deny the fact that there is minor child aged 5 years who is being taking care of by the mother. It is further an admitted position that no amount is being paid to the petitioner and the child towards maintenance. The argument of the learnedcounsel for the respondent that the petition under Section 13 of the HM Act was filed prior in time would not cut any ice inasmuch as the admitted fact remains that the petitioner would have to travel a distance of 80 Kms (up and down) in order to attend the proceedings at Gurugram. The petitioner has a minor child, who is being taking care of by her, and she has no independent source of income.

In view of the totality of the circumstances, I find this to be a fit case for transfer the petition filed by the respondent-husband under Section 13 of the HM Act titled as “*Surender Tanwar Vs. Poonam*” pending in the Court of Additional Principal Judge (Family Court), Gurugram to the Court of competent jurisdiction at Faridabad.

The records of the case shall be sent by the concerned Court to the Court of the learned District Judge, Faridabad and the parties shall appear there on **20.01.2022** at 10.00 a.m.

The present petition is disposed off in the above terms.

January 06, 2022
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(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO