IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

TA-1124-2022 (O&M)
Date of decision: 21.09.2022

Pooja

....Petitioner

Vs.

Sandeep

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. V.K. Pandey, Advocate
for the petitioner.

****

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, Gurugram to the competent Court of jurisdiction at Rewari.

Learned counsel for the petitioner has argued that on account of matrimonial discord, the petitioner has filed a petition under Section 125 Cr.P.C., a complaint under the Protection of Women from Domestic Violence Act and also lodged an FIR under Sections 34, 354A, 406, 498-A, 506, 509 IPC at Police Station Rewari. It is further submitted that the petitioner is facing great difficulty in prosecuting the petition filed by the

VISHNU
2022.09.21 12:01
I attest to the accuracy and integrity of this document
Punjab and Haryana High Court, Chandigarh

respondent, as there is a distance of about 58 kms between Rewari and Gurugram.

Learned counsel has further contended that the petitioner is having a minor child, who is living in her care and custody and she is facing difficulty to defend the case, as she has to travel from Rewari to Gurugram.

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 has further relied upon **N.C.V. Aishwarya Vs. A.S. Saravana Karthik Sha, 2022 Live Law (SC) 627,** wherein the Hon'ble Supreme Court held as under: -

> *"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*

VISHNU
2022.09.21 12:01
I attest to the accuracy and integrity of this document
Punjab and Haryana High Court, Chandigarh

> *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.*
>
> *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."*

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 issuance of notice to the respondent has the consequences of staying further proceedings before the trial Court, otherwise the petitioner-wife will have to bear the litigation expenses and transportation expenses and in view of the fact that even in case notice of motion is issued, even the respondent/husband has to bear the litigation expenses and in view of the

VISHNU
2022.09.21 12:01
I attest to the accuracy and integrity of this document
Punjab and Haryana High Court, Chandigarh

judgments in **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 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, Gurugram will be transferred to the competent Court of jurisdiction at Rewari.*
2. *The District Judge, Rewari, will assign the said petition to the competent Court of jurisdiction.*
3. *The Family Court, Gurugram is directed to transfer all the record pertaining to the aforesaid case(s) to District Judge, Rewari.*
4. *The parties are directed to appear before the Family Court, Rewari within a period of 01 month from today.*
5. *The Family Court, Rewari will make all the endeavour to refer the case before the Mediation and Conciliation Centre for exploring the possibility of amicable settlement between the parties.*
6. *The Court concerned, where the litigations between the parties are pending, will accommodate them with one date in one calender month.*

However, liberty is granted to the respondent to revive this petition, if he intent to contest the same, provided that:-

(a) *The respondent will clear all arrears of maintenance amount, if any, in terms of a petition filed by the petitioner either under Section 125 Cr.P.C. or Section 12 of the Domestic Violence Act or Section 24 of the Hindu Marriage Act.*

(b) *The respondent will file an affidavit giving undertaking to pay*

VISHNU
2022.09.21 12:01
I attest to the accuracy and integrity of this document
Punjab and Haryana High Court, Chandigarh

Rs.1,000/- per day, to the petitioner for attending the Court proceedings at Gurugram, on each and every date of hearing.

(c) *The respondent will bring a demand draft of Rs.25,000/- towards the litigation expenses of the petitioner to pursue the case at Gurugram, in case the respondent opt to contest this petition.*

Present petition is disposed of accordingly.

[ARVIND SINGH SANGWAN]
JUDGE

21.09.2022
vishnu

Whether speaking/reasoned : Yes/No

Whether reportable: Yes/No

VISHNU
2022.09.21 12:01
I attest to the accuracy and integrity of this document
Punjab and Haryana High Court, Chandigarh