

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

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TA-1157-2021 (O&M)
Date of decision: 08.09.2022

Ishu Mittal

...Petitioner

Versus

Rohit Mittal

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. N. S. Dadwal, Advocate
for the petitioner.

Mr. Abhinav Jain, Advocate
for the respondent.

ARVIND SINGH SANGWAN, J. (Oral)

While issuing notice of motion on 23.11.2021, the following
order was passed:

“This petition has been filed by the petitioner-wife seeking transfer of the petition being HMA/628/2021 titled 'Rohit Mittal vs. Ishu Mittal @Ishu Goyal' filed by the respondent-husband, pending before the Family Court, Moga to the Court of competent jurisdiction at Jagraon, District Ludhiana.

Learned counsel for the petitioner would contend that the petitioner got married to the respondent on 12.05.2020 and is now residing with her parents at Jagraon, District Ludhiana since 24.03.2021. The distance between Moga and Jagraon is around 40 kms. (one way). It has further been contended that it is extremely difficult for the petitioner to pursue her case at Moga as her father is suffering from paralysis and face of her brother got burnt in an accident and there is no other male member in the family to accompany her to Moga. It

has also been contended that a petition under Section 9 of the Hindu Marriage Act, 1955 has been filed by the petitioner which is pending before the Family Court Camp at Jagraon, District Ludhiana. Apart from that, a complaint has also been filed by the petitioner to the Commissioner of Police, Ludhiana Rural against the respondent which is still under consideration.

Notice of motion returnable 17.12.2021.”

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

08.09.2022

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No