

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

TA No.1187 of 2021 (O&M)
Date of decision: 21.07.2022

Taruna Kapoor

....Petitioner

Versus

Ravi Kapoor

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. S.K. Singla, Advocate
for the petitioner.

None for the respondent.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this petition is for transfer of the petition filed under Section 13 of the Hindu Marriage Act, pending in the Family Court, Nabha to the competent Court of jurisdiction at Malerkotla.

Vide order dated 06.01.2022, the following order was passed:-

“Learned counsel for the petitioner would contend that the petitioner-wife would have to travel a distance of about 55 kilometres (one way) from her place of residence in Tehsil Malerkotla, District Sangrur in order to attend to the proceedings initiated by the respondent- husband under Section 13 of the Hindu Marriage Act, 1955 for dissolution of marriage by a decree of divorce pending in the Court of Principal Judge, Family Court, Nabha and, hence, she would not be able to properly defend her case on each and every date of hearing. It is further contended that the petitioner has two minor children to look after and has no independent source of income. The further contention is that a petition initiated by the petitioner under Section 125 CrPC is already pending at Malerkotla”

Counsel for the petitioner has argued that on account of a

matrimonial discord, the petitioner has filed a petition under Section 125 Cr.P.C. at Malerkotla.

Counsel for the petitioner has further submitted that the respondent/husband has filed the petition under Section 13 of the Hindu Marriage Act, as a counter-blast, before the Principal Judge, Family Court, Nabha.

Counsel for the petitioner has also argued that on account of a petition filed by the respondent/husband, the petitioner is facing great difficulty in prosecuting the said case as there is a distance of about 35 Kms from Malerkotla to Nabha.

Counsel for the petitioner has further contended that the petitioner is having two minor children, who are living in her care and custody and she is facing difficulty to defend the case as she has to travel from Malerkotla to Nabha.

Counsel for the petitioner 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 has 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.”*

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 the family condition of the wife, the custody of the minor child, economic condition of the wife, her physical health and earning capacity of the husband and most important the 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.

As per the office report, the respondent has been served, however, there is no representation on his behalf.

After hearing the counsel for the petitioner, considering the fact that the petitioner/wife will have to bear the litigation expenses and transportation expenses and in view of the judgments i.e. ***Sumita Singh's case (supra)*** and ***Rajani Kishor Pardeshi'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 13 of the Hindu Marriage Act, pending before the Family Court, Nabha will be transferred to the competent Court of jurisdiction at Malerkotla.*
2. *The District Judge, Sangrur, will assign the said petition to the competent Court of jurisdiction.*
3. *The Family Court, Nabha is directed to transfer all the record pertaining to the aforesaid case to District Judge, Sangrur.*
4. *The parties are directed to appear before the trial Court, concerned, within a period of 01 month from today.*

Disposed of.

(ARVIND SINGH SANGWAN)
JUDGE

21.07.2022

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Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No