

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

TA-1183-2021 (O&M)
Date of decision: 27.07.2022

Meenu

....Petitioner

Vs.

Omvir @ Ombir

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Deepak Girotra, Advocate for the petitioner.

None for the respondent.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for transfer of the petition filed by the respondent-husband under Section 13(1)(ia) of the Hindu Marriage Act, pending before the Family Court, Charkhi Dadri to the competent Court of jurisdiction at Rohtak.

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. and a petition/complaint under the Protection of Women from Domestic Violence Act at Rohtak. It is further submitted that the petitioner is facing great difficulty in prosecuting the petition filed by the respondent, as there is a distance of about 75 kms from Rohtak to Charkhi Dadri.

Learned counsel 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 Rohtak to Charkhi Dadri.

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.*”

As per office report, father of the respondent refused to accept the notice. Even otherwise, vide order dated 06.01.2022, the trial Court was directed to adjourn the case beyond the date fixed before this Court, which is a deemed service on the respondent about pendency of the petition under Section 13 of Hindu Marriage Act.

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 the petitioner-wife will have to bear the litigation expenses and transportation expenses and in view of the judgments in **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(1)(ia) of the Hindu Marriage Act, pending before the Family Court, Charkhi Dadri will be transferred to the competent Court of jurisdiction at Rohtak.*
- 2. The District Judge, Rohtak will assign the said petition to the competent Court of jurisdiction.*
- 3. The Family Court, Charkhi Dadri is directed to transfer all the record pertaining to the aforesaid case to District Judge, Rohtak.*
- 4. The parties are directed to appear before the Family Court, Rohtak within a period of 01 month from today.*

Present petition is disposed of accordingly.

[ARVIND SINGH SANGWAN]
JUDGE

27.07.2022

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Whether speaking/reasoned : Yes/No

Whether reportable: Yes/No