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

TA-1211-2021 (O&M)
Date of decision: 18.07.2022

Mannu Rani **...Petitioner**

Versus

Daljeet Singh **...Respondent**

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. S. K. Verma, Advocate
for the petitioner.

None for the respondent, despite service.

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, 1955, titled as ***Daljeet Singh vs. Mannu Rani***, pending before the Additional District Judge, Charkhi Dadri to the competent Court of jurisdiction at Jind.

Learned counsel for the petitioner has argued that on account of a matrimonial discord, the petitioner-wife has filed a petition under Section 125 Cr.P.C.; a petition under Section 12 of the Protection of Women from Domestic Violence Act as well as an FIR under Sections 498-A and 406 IPC at Jiond, which are pending. It is further submitted that in order to harass the petitioner-wife, the respondent-husband has filed the present petition under Section 9 of the Hindu Marriage Act at Charkhi Dadri. It is further submitted that the petitioner is facing great difficulty in prosecuting the said case, as there is a distance of about 115 kms between Charkhi Dadri and Jind.

It is further submitted that the petitioner is having a minor

child, who is living in her care and custody, therefore, it is very difficult for her to defend the said case at 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, the respondent is not served through his counsel in the trial Court, however, there is no representation on his behalf.

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 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) and ***Rajani Kishor Pardeshi'***s case (supra), this Court deems it

appropriate to allow the present petition, with the following directions:-

(i) *The petition filed under Section 9 of the Hindu Marriage Act, pending before the Additional District Judge, Charkhi Dadri will be transferred to the competent Court of jurisdiction at Jind.*

(ii) *The District Judge, Jind will assign the said petition to the competent Court of jurisdiction.*

(iii) *The Addtional District Judge at Charkhi Dadri is directed to transfer all the record pertaining to the aforesaid case to District Judge, Jind.*

(iv) *The parties are directed to appear before the trial Court at Jind within a period of 01 month from today.*

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

(i) *The respondent will clear all the arrears of maintenance amount, if any, in terms of the 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.*

(ii) *The respondent will file an affidavit giving undertaking to pay Rs.1,000/- per day, to the petitioner for attending the Court proceedings at Charkhi Dadri, on each and every date of hearing.*

(iii) The respondent will bring a demand draft of Rs.25,000/- towards the litigation expenses of the petitioner to pursue the case at Charkhi Dadri, in case the respondent opts to contest this petition.

18.07.2022 **(ARVIND SINGH SANGWAN)**
Waseem Ansari **JUDGE**

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*