

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

TA-1198-2021 (O&M)
Date of decision: 27.07.2022

Manpreet Kaur

....Petitioner

Vs.

Gagandeep Singh

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. A.S. Jawandha, 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 of the Hindu Marriage Act, pending before the Family Court, Jagraon, District Ludhiana to the competent Court of jurisdiction at Nabha, District Patiala.

While issuing notice of motion, following order was passed by this Court on 06.12.2021:-

“Learned counsel for the petitioner would contend that the petitioner-wife would have to travel a distance of about 95 kilometres (one way) from her place of residence in District Patiala in order to attend the divorce proceedings initiated by the respondent-husband under Section 13 of the Hindu Marriage Act, 1955 at Jagraon and, hence, she would not be

able to properly defend her case on each and every date of hearing. It has further been contended that a complaint filed by the petitioner under Sections 12, 17, 19, 20, 22 and 31 of the Protection of Women from Domestic Violence Act, 2005 is already pending before the Sub Divisional Judicial Magistrate, Nabha, District Patiala and the respondent has also filed a reply to the same.”

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 served through his mother, 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 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 of the Hindu Marriage Act, pending before the Family Court, Jagraon will be transferred to the competent Court of jurisdiction at Nabha.*
- 2. The District Judge, Patiala will assign the said petition to the competent Court of jurisdiction at Nabha.*
- 3. The Family Court, Jagraon, District Ludhiana is directed to transfer all the record pertaining to the aforesaid case to District Judge, Patiala.*
- 4. The parties are directed to appear before the Family Court, Nabha, 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