

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

TA-1214-2022 (O&M)
Date of decision: 14.10.2022

Abha Bansal

....Petitioner

Vs.

Amarjeet and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Kashish Garg, Advocate
for the petitioner.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for transfer of Civil Suit bearing No.CS/144/2022 dated 07.03.2022 titled as Amarjeet Vs. Abha Bansal and others, pending before the Addl. Civil Judge (Sr. Divn.), Sri Muktsar Sahib to the competent Court of jurisdiction at Bathinda.

Learned counsel for the petitioner has argued that petitioner Abha Bansal was married to one Amandeep and out of the wedlock, a minor son aged about 03 years was born, who is living in care and custody of the petitioner. It is further submitted that on account of matrimonial discord, the petitioner along with her minor child filed a petition under Section 125 Cr.P.C. for grant of maintenance, which is pending before the Principal

Judge, Family Court, Bathinda and even the petition under Section 25 of Guardians and Wards Act, 1890 filed by husband of the petitioner seeking custody of the minor child is also pending before the Family Court, Bathinda. It is also submitted that now respondent No.1 Amarjeet/father-in-law of the petitioner has filed a suit for permanent injunction restraining the defendants from interfering in the life of the plaintiff in any manner or entering his house. It is next submitted that the disputed house is maternal home of the petitioner, from where she and her minor child have been turned out, therefore, the suit is nothing, but an outcome of the matrimonial discord and is a ploy to further harass the petitioner.

Learned counsel further submits that since all the litigations filed by the petitioner and her husband are pending at Bathinda, the suit, which now has been filed by her father-in-law at Sri Muktsar Sahib, in which all the family members of the petitioner have been impleaded as party, may be transferred to Bathinda, as she is facing great difficulty in prosecuting the said suit filed by respondent No.1, as there is a distance of about 70 kms between Sri Muktsar Sahib and Bathinda.

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 has further relied upon **N.C.V. Aishwarya Vs. A.S. Saravana Karthik Sha, 2022 Live Law (SC) 627**, wherein the Hon’ble Supreme Court held as under: -

“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.

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.”

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 issuance of notice to the respondents has the consequences of staying further proceedings before the trial Court, otherwise the petitioner will have to bear the litigation expenses and transportation expenses and in view of the fact that even in case notice of motion is issued, even the respondents have to bear the litigation expenses and in view of the judgments in **Sumita Singh's** case (supra), **Rajani Kishor Pardeshi's** case (supra) and **N.C.V. Aishwarya'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 Civil Suit bearing No.CS/144/2022 dated 07.03.2022 titled as Amarjeet Vs. Abha Bansal and others, pending before the Addl. Civil Judge (Sr. Divn.), Sri Muktsar Sahib will be transferred to the competent Court of jurisdiction at Bathinda.*
2. *The District Judge, Bathinda will assign the said suit to the competent Court of jurisdiction.*
3. *The Addl. Civil Judge (Sr. Divn.), Sri Muktsar Sahib is directed to transfer all the record pertaining to the aforesaid case(s) to District Judge, Bathinda.*

4. *The parties are directed to appear before the District Judge, Bathinda within a period of 01 month from today.*
5. *The trial Court, Bathinda will make all the endeavour to refer the case before the Mediation and Conciliation Centre for exploring the possibility of amicable settlement between the parties.*
6. *The Court concerned, where the litigations between the parties are pending, will accommodate them with one date in one calender month.*

Present petition is disposed of accordingly.

[ARVIND SINGH SANGWAN]
JUDGE

14.10.2022

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Whether speaking/reasoned : Yes/No

Whether reportable: Yes/No