

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

228

TA-1224-2021 (O&M)
Date of decision: 03.08.2022

Sandeep Kaur**...Petitioner**

Versus

Jagroop Singh**...Respondent****CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN**

Present:- Mr. Abhinav Jain, Advocate
for the petitioner.

Mr. Vikas Gupta, Advocate
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, 1955, titled as ***Jagroop Singh vs. Sandeep Kaur***, pending before the Family Court, Tarn Taran to the competent Court of jurisdiction at Moga.

On 10.02.2022, the following order was passed:

“Learned counsel contends that notice of motion was issued in the main case on 10.12.2021 for 17.02.2022. However, on 18.01.2022, the matter was adjourned by the learned Family Court, Tarn Taran for 14.02.2022. Learned counsel contends that after being turned out from the matrimonial home at Tarn Taran, the petitioner is residing along with her parents at Moga, which is at a distance of more than 86 kms, that the petitioner has filed a petition under Section 125 Cr.P.C. at Moga and as a retaliatory measure, the respondent has

instituted a petition under Section 13, Hindu Marriage Act at Tarn Taran.

Learned counsel contends that the petitioner being a lady and there being no other able member in the family, it is very difficult for the petitioner to travel from Moga to Tarn Taran to attend the Court proceedings.

Notice of the application for 17.02.2022.

In the meantime, proceedings listed before the learned Family Court, Tarn Taran for 14.02.2022, be deferred to a date beyond the date fixed before this Court.”

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

“9. 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.

10. 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.”

Learned counsel for the respondent has heavily opposed the prayer of the petitioner.

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 parties, 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 by the respondent-husband under Section 13 of the Hindu Marriage Act, pending at Family Court, Tarn Taran will be transferred to the competent Court of jurisdiction at Moga.*
- (ii) *The District Judge, Moga will assign the said petition to the competent Court of jurisdiction.*
- (iii) *The Family Court at Tarn Taran is directed to transfer all the record pertaining to the aforesaid case to District Judge, Moga.*
- (iv) *The parties are directed to appear before the trial Court at Moga within a period of 01 month from today.*

03.08.2022

Waseem Ansari(ARVIND SINGH SANGWAN)
JUDGE*Whether speaking/reasoned**Yes/No**Whether reportable**Yes/No*