

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

TA No.1234 of 2021 (O&M)
Date of decision: 21.07.2022

Rajni
.....Petitioner

Versus

Sandeep Kumar
.....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Suneet Kumar, Advocate
for the petitioner.

Mr. P.S. Jammu, Advocate
for the respondent.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this petition is for transfer of the petition filed under Section 9 of the Hindu Marriage Act, pending in the Family Court, Panchkula to the competent Court of jurisdiction at Ambala.

Vide order dated 13.12.2021, the following order was passed:-

“Learned counsel for the petitioner would contend that the petitioner would need to travel a distance of 50 kms one way to attend the proceedings at Panchkula. It is further contended that the petitioner is looking after two minor children aged 2 years and 08 months and she has no independent source of income. It is further the contention that proceedings in a complaint under Sections 12, 17, 18, 19, 20, 22 of the Protection of Women from Domestic Violence Act, 2005, are already pending at Ambala.

Notice of motion returnable 20.01.2022.”

Counsel for the petitioner has argued that on account of a matrimonial discord, the petitioner has filed a complaint under Sections 12, 17, 18, 19, 20, 22 of the Protection of Women from Domestic

Violence Act, 2005 at Ambala.

Counsel for the petitioner has further submitted that the respondent/husband has filed the petition under Section 9 of the Hindu Marriage Act, as a counter-blast, before the Principal Judge, Family Court, Panchkula.

Counsel for the petitioner has also argued that on account of a petition filed by the respondent/husband, the petitioner is facing great difficulty in prosecuting the said case as there is a distance of about 45 Kms from Ambala to Panchkula.

Counsel for the petitioner has further contended that the petitioner is having 02 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 Ambala to Panchkula.

Counsel for the petitioner 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 has 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.”*

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 the family condition of the wife, the custody of the minor

child, economic condition of the wife, her physical health and earning capacity of the husband and most important the 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.

Counsel for the respondent has, however, not disputed the factual position but opposed the submissions made by counsel for the petitioner.

After hearing the counsel for the parties, considering the fact that the petitioner/wife will have to bear the litigation expenses and transportation expenses and in view of the judgments i.e. ***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 9 of the Hindu Marriage Act, pending before the Family Court, Panchkula will be transferred to the competent Court of jurisdiction at Ambala.*
- 2. The District Judge, Ambala, will assign the said petition to the competent Court of jurisdiction.*
- 3. The Family Court, Panchkula is directed to transfer all the record pertaining to the aforesaid case to District Judge, Ambala.*
- 4. The parties are directed to appear before the trial Court, Ambala, within a period of 01 month from today.*

Disposed of.

(ARVIND SINGH SANGWAN)
JUDGE

21.07.2022

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Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No