

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

TA-1244-2021 (O&M)
Date of decision: 20.07.2022

Ashima Dutta

....Petitioner

Vs.

Manuj Kaushal

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Deepak Arora, Advocate
for the petitioner.

Mr. B.J.S. Randhawa, 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 9 of the Hindu Marriage Act, pending before the Family Court, SBS Nagar to the competent Court of jurisdiction at Gurdaspur.

Learned counsel for the petitioner has argued that on account of a matrimonial discord, the petitioner has filed a petition/complaint under Section 125 Cr.P.C., a petition under Section 12 of Prevention of Women from Domestic Violence Act and an FIR at Gurdaspur. It is further submitted 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 135 kms from Gurdaspur to SBS Nagar.

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 respondent has opposed the prayer, but could not dispute the factual position regarding pendency of other cases at Gurdaspur.

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 9 of the Hindu Marriage Act, pending before the Family Court, SBS Nagar will be transferred to the competent Court of jurisdiction at Gurdaspur.*
- 2. The District Judge, Gurdaspur, will assign the said petition to the competent Court of jurisdiction.*
- 3. The Family Court, SBS Nagar is directed to transfer all the record pertaining to the aforesaid case(s) to District Judge, Gurdaspur.*
- 4. The parties are directed to appear before the District Judge, Gurdaspur within a period of 01 month from today.*

Present petition is disposed of accordingly.

[ARVIND SINGH SANGWAN]
JUDGE

20.07.2022

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Whether speaking/reasoned : Yes/No

Whether reportable: Yes/No