

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

211

TA-1232-2021 (O&M)
Date of decision: 29.07.2022

Kiran**...Petitioner**

Versus

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

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

Mr. Subhashish Kukreti, 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, 1955, titled as ***Gurpreet Singh vs. Kiran***, pending before the Family Court, Patiala to the competent Court of jurisdiction at Bathinda.

While issuing notice of motion on 13.12.2021, the following order was passed:

“Learned counsel for the petitioner would contend that the distance the petitioner would have to travel in order to attend the proceedings at Patiala is 150 kms. It is further the contention that four cases initiated by the wife i.e. i) a complaint bearing No.COMI-162-2020; ii) a petition filed under Section 12 of the Protection of Women from Domestic Violence Act, 2005; iii) proceedings under Section 125 of CrPC and; iv) proceedings in FIR No.15 registered under Section 406 and 498-A IPC at Police Station Women Cell Bathinda, are already pending at Bathinda.

Notice of motion returnable 01.02.2022.”

Learned counsel for the petitioner has argued that on account of a matrimonial discord, the petitioner has filed the aforesaid cases/FIR at Bathinda, which are pending. It is further submitted that as a counter-blast to the same, the respondent-husband has filed the present petition under Section 9 of the Hindu Marriage Act at Patiala in order to harass the petitioner. It is further submitted that the petitioner is facing great difficulty in prosecuting the said case, as there is a distance of about 150 kms between the aforesaid two places.

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-husband has opposed the prayer of the petitioner-wife.

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 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 under Section 9 of the Hindu Marriage Act, pending before the Family Court, Patiala will be transferred to the competent Court of jurisdiction at Bathinda.*
- (ii) *The District Judge, Bathinda assign the said petition to the competent Court of jurisdiction.*
- (iii) *The Family Court at Patiala is directed to transfer all the record pertaining to the aforesaid case to District Judge, Bathinda.*
- (iv) *The parties are directed to appear before the trial Court at Bathinda within a period of 01 month from today.*

29.07.2022

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No