

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

215+216

1. TA-877-2019 (O&M)

Jasmeet Chauhan

...Petitioner

Versus

Arjun Singh Chauhan

...Respondent

2. TA-1044-2019 (O&M)

Jasmeet Chauhan

...Petitioner

Versus

Arjun Singh Chauhan

...Respondent

Date of decision : 01.09.2022

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Vaibhav Narang, Advocate
for the petitioner-wife.

Mr. Alok Mittal, Advocate
for the respondent-husband.

ARVIND SINGH SANGWAN, J. (Oral)

This common order shall dispose of above mentioned two transfer petitions as they are similar in nature.

Prayer in these petitions is for transfer of the petitions filed by the respondent-husband under Sections 7 & 25 of the Guardians and Wards Act, 1890 as well as the petition filed under Section 13 of the Hindu Marriage Act, both pending before the Family Court, Patiala to the competent Court of jurisdiction at Amritsar.

Learned counsel for the petitioner has argued that the minor son is in the custody of the petitioner-wife and she is having her permanent

residence at Amritsar and the child is studying in a school situated at Amritsar.

Learned counsel for the petitioner has further argued that on account of a matrimonial discord, the petitioner has filed a petition under Section 125 Cr.P.C. at Amritsar, which are pending. It is further submitted that respondent-husband has filed the aforesaid petitions 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 230 Kms between the aforesaid two places.

Learned counsel for the petitioner further submitted that as per Section 9 of the Guardians and Wards Act, 1890, the jurisdiction will be at a place, where the minor child is residing.

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-husband has opposed the prayer of the petitioner-wife on the ground that the petitioner-wife is running some security agency and has taken the custody of the minor child forcibly as the respondent is posted at Jammu, whereas the petitioner has taken premature retirement from the services of Army.

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), **Rajani Kishor Pardeshi's** case (supra) and **N.C.V. Aishwarya's** case (supra), this Court deems it appropriate to allow the present petitions, with the following directions:-

- (i) *The aforesaid petitions filed under Sections 7 & 25 of the Guardians and Wards Act, 1890 as well as under Section 13 of the Hindu Marriage Act, pending before the Family Court, Patiala will be transferred to the competent Court of jurisdiction at Amritsar.*
- (ii) *The District Judge, Amritsar will assign the said petitions to the competent Court of jurisdiction.*
- (iii) *The Family Court at Patiala is directed to transfer all the record pertaining to the aforesaid cases to District Judge, Amritsar.*
- (iv) *The parties are directed to appear before the trial Court at Amritsar within a period of 01 month from today.*
- (v) *The Courts concerned, where the cases are pending between the parties, will accommodate them with one date in a calendar month.*

A photocopy of this order be placed on the file of the connected case.

01.09.2022

Waseem Ansari

Whether speaking/reasoned

(ARVIND SINGH SANGWAN)
JUDGE

Yes/No

Whether reportable

Yes/No