

**THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

TA No. 1266/2021 (O&M)
Date of decision: November 16 , 2022

Ramandeep Kaur

.....Petitioner

v

Amar Singh & Others

.....Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. OPS Dhaliwal, Advocate for the petitioner.

Mr. Akhil Ahuja, Advocate for respondents.

Nidhi Gupta,J.(Oral)

This is a petition seeking transfer of Civil Suit No. 104 of 2021 titled as 'Amar Singh and others v Ramandeep Kaur and others' filed by the respondents No. 1 to 5 against the present petitioner and proforma respondents herein, pending in the Court of Additional Civil Judge(Sr. Division), Nabha, to any Court of competent jurisdiction at District Barnala.

Ld. counsel for the petitioner submits that the marriage between the petitioner and respondent no.5 was solemnized on 19.4.2018. Out of this wedlock one child Japdeep Kaur was born on 14.1.2019, who is residing with the petitioner. Soon after marriage the respondents started harassing the petitioner for bringing less dowry and demanded more dowry from her, and eventually the petitioner was turned out of the matrimonial

home. As such, the petitioner and respondent no.5 have been living separately since 2020.

It is further stated that two other cases are already pending between the petitioner and respondent No. 5 at Barnala. Respondent no.5 had filed a petition under Section 10 of the Hindu Marriage Act, 1955 seeking grant of decree of judicial separation in the Court of Principal Judge, Family Court, Patiala, Camp Court at Nabha, and this petition already stands transferred to the Court of competent jurisdiction at Barnala in pursuance of order dated 8.8.2022 passed by a Co-ordinate Bench of this Court in TA No.1258/2021 filed by petitioner- Ramandeep Kaur. Even one petition under Section 125 Cr. PC is pending between the petitioner and respondent no.5 at District Barnala itself.

Ld. counsel for the petitioner further submitted that prayer in said suit of which transfer is sought, is for:

“permanent injunction restraining the defendants from getting the plaintiffs implicated in false police case by converting matrimonial dispute of purely civil nature into criminal by pressurizing Incharge of Women Cell, Barnala under political influence or otherwise and further restraining defendants from demanding handsome ransom by forcibly procuring document of valuable security with signatures of defendants and causing any kind of damage to the person and property of plaintiffs in any manner at the behest of police and muscle power”

It is submitted that the mere reading of the above shows that the respondents No. 1 to 5 are indulging in utterly frivolous litigation just to harass the petitioner, and rather the said civil suit is not maintainable.

On the other hand, learned counsel for the respondents has

opposed this petition and has stated that plaintiff no.1 in the civil suit is

father-in-law of the petitioner and is a retired Army personnel aged 57 years of age and therefore, it will be difficult for him to travel to Barnala on every date of hearing. It is further submitted by the learned counsel for the respondents that real brother of the petitioner is working in Nabha and therefore, it should not be difficult for the petitioner to be able to attend to the hearings in the civil suit at Nabha. Further that the respondent No. 5-husband is even willing to pay the travel expenses to the petitioner for the same. In support of his contentions Id. Counsel for the respondents has relied upon **Kulwinder Kaur @ Kulwinder v Kandi Friends Education Trust and others, (2008) 3 SCC 659; Preeti Sharma v Manjit Sharma, (2005)11 SCC 535; Anindita Das v Srijit Das (2006) 9 SCC 197; Renu v Bhupesh Singh, Law Finder DocId # 1713775; and Smt. Akvinder Kaur v Sh. Gurpreet Singh, Law Finder Doc Id# 1331219079.**

In response, learned counsel for the petitioner has stated that the petitioner is single-handedly bringing up the minor child and is therefore, unable to pursue the litigation in Nabha. Moreover, as already pointed out above the petition under Section 10 of HMA and petition under Section 125 Cr. PC are pending between the petitioner and respondent no.5 at District Barnala. It is further stated that petitioner apprehends bodily injury at the hands of respondents No. 1 to 5 who had earlier also beaten the petitioner many times. Moreover, the petitioner has no male member who can accompany her to pursue this litigation in Nabha.

Heard learned counsel for the parties and perused the record as also the judgments relied upon by the learned counsel for the respondents.

Considering the fact that the petitioner is single-handedly raising a minor daughter; and that there are already two petitions pending

in Barnala; and in view of the facts and circumstances of the present case as well as the fact that the petitioner has no source of income; no male member in her family to accompany her to Camp Court Nabha which is about 100 kms away one-way; and apprehends bodily injury at the hands of the respondents No. 1 to 5, the present petition is allowed with the following directions:

- 1) that the aforesaid civil suit bearing CS/104 of 2021 dated 9.3.2021 titled as ‘Amar Singh and others v Ramandeep Kaur and others’, pending before the Court of Additional Civil Judge (Sr. Division), Nabha will be transferred to a Court of competent jurisdiction at Barnala.
- 2) that the District Judge, Patiala shall ensure quick dispatch of said case file, complete in all respect, from the Court of Additional Civil Judge (Sr. Division), Nabha to District Judge, Barnala.
- 3) That the District Judge, Barnala will assign the said suit to a court of competent jurisdiction.
- 4) That the parties, through their counsel, are directed to appear before the District Judge, Barnala on 10.12.2022, on which date the suit in question will be assigned to a court of competent jurisdiction for further proceedings in accordance with law.

Petition stands allowed in the above terms.

Pending application(s),if any also stand disposed of.

November 16,2022
Joshi

(Nidhi Gupta)
Judge