

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

Transfer Application No. 1270 of 2021 (O & M)

Date of decision: 01.12.2022

Esha alias Esha Khurrana

.....Petitioner

vs

Chander Kant Gupta

.....Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Lovish Rattan, Advocate for
Mr. Piyush Setia, Advocate
for the petitioner.

Mr. S.P. Soi, Advocate with
Mr. Sahil Soi, Advocate
For the respondent.

NIDHI GUPTA, J.(Oral)

1. Prayer in this petition filed by petitioner-wife is for transfer of the petition filed by respondent-husband under Section 13 of the Hindu Marriage Act, 1955 titled "Chander Kant Gupta vs. Esha Khurrana" pending in the Court of Principal Judge, Family Court, Camp Court Nakodar, District Jalandhar to a Court of competent jurisdiction at Camp Court Abohar, District Fazilka.

2. Learned counsel for the petitioner has contended :-

- i) that the parties were married on 11.12.2019 according to Hindu rites and rituals.
- ii) that no child was born out of this wedlock.
- iii) that the petitioner-wife is living separately from the respondent-husband since 18.3.2020 and living with her parents at their mercy at Abohar, District Fazilka.

- iv) that the petitioner is working as Lecturer in Government Sr. Sec. School, Abohar, District Fazilka, living with her parents and the respondent-husband is not paying anything to her towards maintenance.
- v) The respondent-husband has filed the petition under Section 13 of the Hindu Marriage Act, which is pending before the Principal Judge, Family Court, Nakodar, District Jalandhar.

The proceedings arising out of petitions (1) under Section 12 of the Protection of Women from Domestic Violence Act, 2005; and (2) FIR No.226 dated 09.10.2020, under Sections 406 and 498-A IPC and Section 4 of the Dowry Prohibition Act, 1961, Police Station City-1, Abohar, District Fazilka, filed by the petitioner-wife, are pending in the Courts having competent jurisdiction at Abohar, District Fazilka.

- v) that the distance between place of residence of the petitioner-wife i.e. Abohar, District Fazilka and the place of proceedings under Section 13 of the Hindu Marriage Act, 1955 filed by the respondent-husband, pending before the Principal Judge, Family Court, Nakodar, District Jalandhar, is about 210 kilometers of one side.
 - vi) that there is no able bodied person in the family of the petitioner, who can accompany her to the Court of proceedings at Nakodar, District Jalandhar.
3. It is inter alia on these grounds that petitioner prays for transfer of the case, as detailed in para 1 above.

In response to the notice of motion issued, the respondent through his counsel put in appearance and vehemently opposed the allegations leveled against him in the petition. It is submitted by learned counsel for the respondent that in order to harass the

respondent, the petitioner is leveling false and baseless allegations. Learned counsel for the respondent has submitted that neither the respondent nor his family members ever taunted the petitioner about her physical appearance because the respondent himself is 75% disabled person and never demanded any dowry. Learned counsel further contends that the respondent is working in Bank and because he is 75% disabled and used to wear clippings on his legs, therefore, it is impossible for him to travel such a long distance of 210 kilometers to attend the Court proceedings filed by the petitioner-wife just to harass him physically and mentally. In order to support his version, learned counsel for the respondent has annexed the Disability Certificate of the respondent as Annexure R-1 and photographs of respondent showing his physical condition as Annexure R-2 (colly.).

4. I have heard learned counsel for the parties.

After hearing learned counsel for the parties and perused the record of the case file I am of the view that it would not in the interest of justice, if the present petition is allowed and the petition filed by respondent-husband under Section 13 of the Hindu Marriage Act, 1955 titled “Chander Kant Gupta vs. Esha Khurana” pending in the Court of Principal Judge, Family Court, Camp Court Nakodar, District Jalandhar is transferred to the Court of competent jurisdiction at Camp Court Abohar, District Fazilka, because the respondent himself is 75% disabled person and is not in a position to travel such a long distance of 210 kilometers.

Accordingly, in my considered view, the present petition is **disposed of** with a direction to the Family Court, Nakodar, District

Jalandhar to decide the petition filed by respondent-husband under Section 13 of the Hindu Marriage Act,1955 titled “Chander Kant Gupta vs. Esha Khurrana” bearing DMC No.1817 of 2021 expeditiously within next three date of hearings.

Pending application(s), if any, stands disposed of.

December 01, 2022
Vijay Asija

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned	YES/NO
Whether Reportable	YES/NO