

TA-1294-2021

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

**TA-1294-2021 (O&M)
Date of decision: 27.07.2022**

Kavita

....Petitioner

Vs.

Lovenish Kumar

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Ms. Mandeep Kaur, Advocate
for the petitioner.

None for the respondent.

ARVIND SINGH SANGWAN, J. (Oral)

CM-8768-CII-2022

For the reasons stated in the application, same is allowed and
affidavit of the petitioner is taken on record.

CM stands disposed of.

TA-1294-2021

Prayer in this petition is for transfer of the petition filed by the
respondent-husband under Section 13 of the Hindu Marriage Act, pending
before the Family Court, Ambala to the competent Court of jurisdiction at

Karnal.

Learned counsel for the petitioner has argued that on account of matrimonial discord, the petitioner has filed a petition under Section 125 Cr.P.C., a complaint under the Protection of Women from Domestic Violence Act and also registered an FIR No.608 dated 08.06.2019 under Sections 323, 406, 498-A, 506 IPC, at Police Station Sadar Karnal. It is further submitted that the petitioner is facing great difficulty in prosecuting the petition filed by the respondent, as there is a distance of about 85 kms from Karnal to Ambala.

Learned counsel has further contended that the petitioner is having a minor child, who is living in her care and custody and she is facing difficulty to defend the case, as she has to travel from Karnal to Ambala.

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.*”

As per office report, the respondent is served, however, there is no representation on his behalf. Even on 09.03.2022, it was observed that in

case there is not representation on behalf of the respondent on the next date, he will be proceeded against ex-parte.

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 13 of the Hindu Marriage Act, pending before the Family Court, Ambala will be transferred to the competent Court of jurisdiction at Karnal.*
- 2. The District Judge, Karnal will assign the said petition to the competent Court of jurisdiction.*
- 3. The Family Court, Ambala is directed to transfer all the record pertaining to the aforesaid case to District Judge, Karnal.*

*4. The parties are directed to appear before the Family Court,
Karnal within a period of 01 month from today.*

Present petition is disposed of accordingly.

**[ARVIND SINGH SANGWAN]
JUDGE**

27.07.2022

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Whether speaking/reasoned : Yes/No

Whether reportable: Yes/No