

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

TA-944-2019 (O&M)
Date of decision: 28.07.2022

Varsha Sharma

...Petitioner

Versus

Ajay

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Sumit Gupta, Advocate
for the petitioner.

Ms. Kamlesh, 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 13 of the Hindu Marriage Act, 1955, titled as *Ajay vs. Varsha Sharma*, pending before the Family Court, Karnal to the competent Court of jurisdiction at Sonapat.

On 07.01.2020, the matter was referred to Mediation and Conciliation Centre of this Court, however, no amicable settlement could be arrived at between the parties.

Learned counsel for the petitioner has argued that on account of a matrimonial discord, the petitioner has filed a petition under Section 125 Cr.P.C., a complaint under Section 12 of the Protection of Women from Domestic Violence Act, 2005 and has also got registered an FIR under Sections 498-A, 313, 323, 34 of the IPC at Sonapat, which are pending. It is further submitted that as a counter-blast to the said case, the respondent-husband has filed the present petition under Section 13 of the Hindu Marriage Act at Karnal 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 85 kms between the aforesaid two places.

Learned counsel for the petitioner further submits that the petitioner is having a minor child, who is living in her care and custody, therefore, it is very difficult for her to defend the said case at Karnal.

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

28.07.2022*Waseem Ansari***(ARVIND SINGH SANGWAN)
JUDGE***Whether speaking/reasoned**Yes/No**Whether reportable**Yes/No*