

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

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TA No. 958 of 2019 (O & M)

Date of decision : 4.8.2022

Rajni

.....Petitioner

Vs.

Johny @ John Hans

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Ritesh Pandey, Advocate, for the petitioner.

Mr. Prateek Pandit, 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 10 of the Indian Divorce Act, 1869, pending before the Family Court, Ludhiana to the competent Court of jurisdiction at Gurdaspur.

The petition is pending since the year 2019 and the proceedings before the trial Court were stayed.

Learned counsel for the petitioner submits that the respondent-husband has filed a petition under Section 10 of the Indian Divorce Act at Ludhiana and the petitioner-wife is residing at Gurdaspur along with the minor daughter, where she already instituted a petition under Section 125 Cr.P.C. for grant of her and her daughter's maintenance. 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 150 kms from Hisar to Bhiwani.

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

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“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 has further relied upon **N.C.V. Aishwarya Vs. A.S. Saravana Karthik Sha, 2022 Live Law (SC) 627**, wherein the Hon’ble Supreme Court held as under: -

“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.

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.”

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

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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.

Learned counsel for the respondent has however, opposed the prayer of the petitioner.

Perusal of the proceedings before the Mediator show that no amicable settlement could be arrived at.

After hearing the counsel for the parties, 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), **Rajani Kishor Pardeshi's** case (supra) and **N.C.V. Aishwarya'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 10 of the Hindu Marriage Act, pending before the Family Court, Ludhiana will be transferred to the competent Court of jurisdiction at Gurdaspur.*
- 2. The District Judge, Gurdaspur will assign the said petition to the competent Court of jurisdiction.*
- 3. The Family Court, Ludhiana is directed to transfer all the record pertaining to the aforesaid case to District Judge, Gurdaspur.*
- 4. The parties are directed to appear before the Family Court, Gurdaspur within a period of 01 month from today.*

Present petition is disposed of accordingly.

(ARVIND SINGH SANGWAN)
JUDGE

4.8.2022

Ashwani