

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

TA-1161-2019 (O&M)
Date of decision: 01.08.2022

Neha

....Petitioner

Vs.

Vijay Kumar and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Ms. Ramandeep Kaur, Advocate for
Mr. Rahul Bhargava, Advocate
for the petitioner.

None for the respondents.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for transfer of the civil suit titled as
'Vijay Kumar and another Vs. Karan and others', pending in the Court of
Civil Judge (Jr. Divn.), Jalandhar to the competent Court of jurisdiction at
Amritsar.

Learned counsel for the petitioner has argued that petitioner
Neha filed a petition under Section 12 of Protection of Women from
Domestic Violence Act before the Illaqa Magistrate/Judicial Magistrate 1st
Class, Amritsar against her husband Karan Kumar and his family members
and the same is pending and in the meantime, Vijay Kumar and and his wife

Kanchan, who are parents-in-law of the petitioner, filed a suit for permanent injunction restraining the defendants i.e. Karan Kumar and his wife Neha as well as her family members from interfering in the house in question. It is further submitted that the suit is filed only to frustrate the right of the petitioner under Section 12 of Protection of Women from Domestic Violence Act. It is also submitted that since the petitioner is unable to pursue the petition at Jalandhar and the suit is essentially an outcome of family dispute, the same be transferred to Amritsar.

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 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.”

As per office report, despite service, no one has put in appearance, though in terms of the order dated 07.01.2020, wherein the trial Court was directed to adjourn the case, it is a deemed service upon the respondents, who are otherwise served.

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), **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 civil suit titled as 'Vijay Kumar and another Vs. Karan and others', pending in the Court of Civil Judge (Jr. Divn.), Jalandhar will be transferred to the competent Court of jurisdiction at Amritsar.*
2. *The District Judge, Amritsar will assign the said petition to the competent Court of jurisdiction.*
3. *The Civil Judge (Jr. Divn.), Jalandhar is directed to transfer all the record pertaining to the aforesaid case to District Judge, Amritsar.*
4. *The parties are directed to appear before the trial Court,*

Amritsar within a period of 01 month from today.

Present petition is disposed of accordingly.

[ARVIND SINGH SANGWAN]
JUDGE

01.08.2022

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Whether speaking/reasoned : Yes/No

Whether reportable: Yes/No