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

TA-1156-2019 (O&M)
Date of decision: 18.07.2022

Jyoti **...Petitioner**

Versus

Sumit **...Respondent**

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Sansar Kundu, Advocate
for the petitioner.

Mr. Vikas Gulia, 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 ***Sumit vs. Jyoti***, pending before the Family Court, Sonipat to the competent Court of jurisdiction at Jind.

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. for grant of maintenance at Jind and as a counter-blast to the aforesaid case filed by the petitioner-wife, the respondent-husband has filed the present petition under Section 13 of the Hindu Marriage Act at Sonipat in order to harass the petitioner-wife. It is further submitted that the petitioner is facing great difficulty in prosecuting the said case, as there is a distance of about 90 kms between Sonipat and Jind.

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 parties, 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, Sonipat will be transferred to the competent Court of jurisdiction at Jind.

(ii) The District Judge, Jind will assign the said

petition to the competent Court of jurisdiction.

(iii) The Family Court at Sonipat is directed to transfer all the record pertaining to the aforesaid case to District Judge, Jind.

(iv) The parties are directed to appear before the trial Court at Jind within a period of 01 month from today.

18.07.2022 **(ARVIND SINGH SANGWAN)**
Waseem Ansari **JUDGE**

Whether speaking/reasoned *Yes/No*
Whether reportable *Yes/No*