

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

**Transfer Application No. 16 of 2021
Date of decision:-13.03.2023**

Neeta Panwar

.....Petitioner

vs

Vikrant Rajput

.....Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Naveen Chopra, Advocate
for the petitioner.

Mr. Nimanyu Gautam, Advocate
For the respondent.

NIDHI GUPTA, J.(Oral)

1. Prayer in this petition filed by petitioner-wife is for transfer of the petition filed by petitioner-wife herself under Section 13(1)(i-a)(i-b) of the Hindu Marriage Act, 1955 (for short 'the Act') titled "Neeta Panwar vs. Vikrant Rajput" pending in the Court of Principal Judge, Family Court, Gurugram, to a Court of competent jurisdiction at Karnal.

2. In response to notice of motion issued, respondent has come present through his counsel to contest the present Transfer Application.

3. Learned counsel for the petitioner has contended:-

- i) That the parties were married on 28.9.2014 according to Hindu rites and rituals.

- ii) That a girl child was born out of this wedlock, who is around 6 years of age and is in the care and custody of the petitioner.
- iii) That the petitioner-wife is living separately from the respondent-husband since November 2016 and living with her parents at parental home at Karnal.
- iv) That the petitioner is presently working online as Software Engineer at NIIT Technology, Gurugram and does this work from her paternal home at Karnal itself as the nature of her job is web designing.
- v) That the respondent-husband is not paying anything to her and the minor girl towards maintenance.
- vi) That the following proceedings are already pending in Karnal:-
 - (a) under Section 12 of the Protection of Women from Domestic Violence Act, 2005 filed by the petitioner-wife, are pending in the Court having competent jurisdiction at Karnal;
 - (b) It is further submitted that a petition under the Guardian and Wards Act bearing case No.GW/9/2020 titled as 'Vikrant Rajput vs. Neeta Panwar' is pending consideration before the Principal Judge, Family Court, Karnal and the respondent-husband is facing the proceedings at Karnal Court.
- vii) That the petitioner being guardian of her minor daughter has also filed a petition under Section 125 Cr.P.C. bearing case No. MNT/52/19 titled as 'Urvi vs. Vikrant Rajput', which is pending before the Principal Judge, Family Court at Gurugram and she is filing a petition under Section 407 Cr.P.C. for transfer of that petition too from the Court at Gurugram to the Court of competent jurisdiction at Karnal.

- viii) That the distance between place of residence of the petitioner-wife i.e. Karnal and the place of proceedings under Section 13(1)(i-a)(i-b) of the Act, filed by the petitioner herself, pending before the Principal Judge, Family Court, Gurugram, is about 150 kilometers on one side.
- ix) That father of the petitioner does not have good health as thrice he has undergone heart surgery and six stents have been implanted by surgery. The medical record pertaining to medical condition of her father is annexed as Annexure P-6, therefore, there is no proficient male member in the family of the petitioner, who can accompany her to the Court of proceedings at Gurugram. The petitioner herself is suffering from severe slip disk problem and with regard to her medical condition she has annexed her medical record as Annexure P-5. The petitioner also expressed threat perception from the respondent-husband in case she would attend the Court proceedings at Gurugram.
4. It is inter alia, on these grounds that petitioner prays for transfer of the case, as detailed in para 1 above.
5. To controvert the contents of the petition, learned counsel for the respondent has contended that it is the petitioner herself, who had filed the petition, which is subject matter of this Transfer Application, in Gurugram, as she is working in Gurugram. It is submitted that this fact has already been admitted by the petitioner herself in this Transfer Application also. With regard to the threat perception from the respondent-husband, learned counsel for the respondent has submitted that when the petitioner at her own can go to her office at Gurugram as and when she wants, then evidently, there remains no threat perception at the hands of the respondent-husband.

Ld. Counsel further submits that it is petitioner's own saying that she has to travel to Gurugram to visit her office as and when need be. He further submits that when presently both the parties are attending the proceedings at Gurugram, then the only motive of the petitioner is just to harass the respondent-husband and intentionally prolong the litigation and the smooth disposal of the case. He further submits that the petition filed under Section 125 Cr.P.C. for grant of maintenance is also pending at the Court at Gurugram.

6. I have heard learned counsel for the parties.

7. The undisputed facts in the present case are:

- a) the petitioner has a 6 year old minor child in her care and custody for whose welfare the petitioner is solely responsible. Accordingly, it will be difficult for the petitioner to travel the distance of 150 kms frequently to attend to the proceedings at Gurugram;
- b) the petitioner is admittedly, working with a firm in Gurugram. However, as per the petitioner, she works online as her job with the said firm is web-designing;
- c) there are two other proceedings under Section 12 DV Act, and Section 25 G & W Act already pending in Karnal, which the respondent is attending to.

8. Moreover, no doubt, the Section 13 HMA petition was filed by the petitioner herself in Gurugram however, the legal position in such like cases as the present one, is well established. In this regard, judgment of the Hon'ble Supreme Court rendered in **N.C.V. Aishwarya vs A.S. Saravana Karthik Sha," 2022 Live Law (SC)**

627, is most relevant wherein the Hon'ble Supreme Court has held as under:-

“9. 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.

10. 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.”

9. Further reliance can be placed upon the judgments in **“Sumita Singh vs Kumar Sanjay”, 2002 SC 396** and **“Rajani Kishor Pardeshivs Kishor Babulal Pardeshi”, 2005(12) SCC 237**, wherein the Hon'ble Supreme Court has 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.”

10. Even this Court in number of cases has followed the aforesaid principle of law. Accordingly, 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 the family condition of the wife, the custody of the minor child, economic condition of the wife, her physical health and earning capacity of the husband and most important the 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.

11. In view of the facts mentioned above and the judgments i.e. **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 deems it appropriate to allow the present petition, subject to the following conditions:-

- a) The petition filed by petitioner herself under Section 13(1)(i-a)(i-b) of Act, bearing HMA/255/2018 titled as 'Neeta Panwar vs. Vikrant Rajput', pending in the Court of Principal Judge, Family Court, Gurugram is transferred to a Court of competent jurisdiction at Karnal.
- b) The Id. District Judge, Gurugram is directed to transfer complete record pertaining to the aforesaid case to District Judge, Karnal.
- c) The parties are directed to appear before the District & Sessions Judge, Karnal on 20.4.2023.
- d) The District Judge, Karnal will assign the said petition to the Court of competent jurisdiction.

12. The concerned Court at Karnal will make all endeavour to refer the case before the Mediation and Conciliation Centre for exploring the possibility of some amicable settlement between the parties.

13. The Court concerned, where the litigation is pending between the parties, will accommodate them with one date in one calendar month.

14. I am supported by the decisions rendered by a Co-ordinate Bench of this Court in **TA No. 1315/2022, Rohini Arora v Nitin Talwar**; **TA No. 1322 of 2022, Jaswinder Kaur v Gurvinderjeet Singh**; and **TA No. 1323 of 2022, Usha Rani v Karmajit Singh**.

Disposed of.

Pending application(s), if any, stands disposed of.

March 13, 2023
Vijay Asija

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned	YES/NO
Whether Reportable	YES/NO