

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

**Transfer Application No. 40 of 2023
Date of decision:01.02.2023**

Satvir Kaur

.....Petitioner

vs

Amarinder Singh

.....Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Sukhdeep Singh, Advocate
for the petitioner.

NIDHI GUPTA, J.(Oral)

1. Prayer in this petition filed by petitioner-wife through her father being Special Power of Attorney holder, is for transfer of the petition filed by respondent-husband under Section 13 of the Hindu Marriage Act, 1955 (for short 'the Act') titled "Amrinder Singh vs. Satvir Kaur" pending in the Court of Principal Judge, Family Court, Ludhiana to a Court of competent jurisdiction at Patiala.

2. Learned counsel for the petitioner submits :-

- i) That the parties were married on 01.2.2020 according to Sikh rites and rituals.
- ii) That no child was born out of this wedlock.
- iii) That the petitioner-wife is living separately from the respondent-husband and presently residing in Canada.
- iv) The respondent-husband has filed the petition under Section 13 of the Hindu Marriage Act, which is pending before the Principal Judge, Family Court, Ludhiana.

- v) That the distance between place of residence of father of the petitioner-wife i.e. Patiala and the place of proceedings under Section 13 of the Hindu Marriage Act, 1955 filed by the respondent-husband, pending before the Principal Judge, Family Court, Ludhiana, is about 90 kilometers one side.
- viii) That father of the petitioner (being Special Power of Attorney holder), is 56 years old aged person and he has to look after his agricultural works and other family responsibilities being the only male member in the family.
3. It is *inter alia* on these grounds that petitioner prays for transfer of the case, as detailed in para 1 above.
5. I have heard learned counsel for the petitioner and gone through the records carefully.
6. The petitioner, who used to live in Canada, filed the present petition through her father being her Special Power of Attorney Holder. It is mentioned in the petition that the petitioner, earlier to marriage, was residing in Canada and it is only on 24.1.2020 she came to India, performed marriage, stayed for 15 days and returned to Canada. Thereafter she again visited India on 04.4.2021 and lived 2-3 months at Ludhiana and again returned to Canada. In between 3-4 months of total span of marriage, dispute also arose and father of the petitioner has filed complaint before the SSP Patiala against the respondent-husband and his family members with the allegations of demand of dowry. The said complaint (Annexure P-2) is still pending consideration before the SSP Patiala.
7. In view of the facts as enumerated above, I am of the view that it is the petitioner-wife who has remained adamant not to join the

company of respondent as well as herself opted to live separately in Canada. Even the present petition is not being pursued by her and it is only her father, being her Special Power of Attorney holder, who is of 56 years of age and as per petitioner herself, her father is doing agricultural work. In contrast, no extenuating circumstances have been brought to light by the petitioner, on the basis of which it is shown that her father is not in a position to travel the relatively short distance of about 90 kilometers as it is hardly a two-hour journey between Ludhiana to Patiala, and that too not daily but only on the date of hearing.

8. This Court is well aware of the preponderance of law in cases of transfer emanating from matrimonial disputes is in favour of the wife. However, in certain similar cases as the present one, the Hon'ble Supreme Court, as well as this Court have refused relief to the wife. One such case which may be referred to is: **(2006) 9 SCC 197 'Anindita Das Vs. Srijit Das'** wherein Hon'ble Supreme Court under similar circumstances dismissed the wife's application seeking transfer of petition filed by the husband. Reference in this regard may also be made to two cases of this Court where, in similar circumstances this Court had dismissed transfer applications filed on behalf of the wife. These are: **TA no. 126 of 2018 Smt. Akhwinder Kaur Vs. Sh. Gurpreet Singh;** and **TA No. 299 of 2019 Nisha alias Manisha vs. Amarveer Yadav.**

9. Accordingly, in view of the facts and circumstances of the present case as noted above, as also the precedents of Case law as above, finding no merit in this petition, the same is hereby dismissed.

Pending application(s) if any stand disposed of.

February 01, 2023
Vijay Asija

(NIDHI GUPTA)
JUDGE

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