

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

TA 33/2020 (O&M)

Date of decision: 14.02.2023

Dr. Inderpreet Santokh

.....Petitioner

Vs.

Dr. Harnoor Singh

.....Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. GS Punia, Senior Advocate with
Ms. Harveen kaur, Advocate for the petitioner-wife

Mr. Kanwaljit Singh, Senior Advocate with
Ms. Neha Anand Mahajan, Advocate for the respondent-
husband

Nidhi Gupta, J.

Petitioner-wife by way of present Transfer Application u/s 24 of the CPC is seeking transfer of petition no. DMC/2148/2019 titled as 'Dr. Harnoor Singh v Dr. Inderpreet Santokh' filed u/s 13 of the Hindu Marriage Act, 1955 (Annexure P-1) by the respondent-husband, from the Court of Principal Judge, Family Court, Jalandhar to a court of competent jurisdiction at Chandigarh.

Vide order dated 13.1.2020 notice of motion was issued and "trial Court was expected to adjourn the matter pending before it beyond the date fixed in this application".

Respondent-husband has put in appearance and filed his written statement.

During the pendency of the present Transfer Application, the parties, who are Doctors by profession, were also referred to Mediation Center

of this Court to explore the possibility of settlement between the parties, however, the Mediator vide his report dated 2.8.2022 has reported that despite best efforts, the parties could not reach at any amicable settlement at this stage and insisted that the case be sent back to the Hon'ble Court.

Shorn of hair-splitting allegations, levelled by both sides against each other, along with supporting documents running into more than 150 pages, the fact remains that the marriage between the parties was solemnized on 26.11.2017 at Chandigarh according to Sikh rites and since 10.12.2018 the petitioner-wife is residing at her parental home at Chandigarh. Both sides, have their own version for the unfortunate failure of the marriage between the parties. While the petitioner has levelled allegations of maltreatment meted out to her at her matrimonial home, respondent-husband has levelled allegations of petitioner wife indulging in vices forbidden by their religion. Since these allegations and counter allegations are neither necessary nor helpful in deciding the present Transfer Application, hence not dealt with in detail in this order.

The petitioner-wife has sought transfer of the divorce petition filed by the respondent-husband at Jalandhar inter-alia on the grounds that: -

- a) She is dependent upon her parents and has no independent income at all.
- b) Her father, brother and sister-in-law (Bhabi) are also Doctors by profession and as such busy in their profession while mother is not keeping well and as such unable to accompany the petitioner to Jalandhar.
- c) It is difficult for the petitioner to attend the Court at Jalandhar which is 150 kms. away from Chandigarh.
- d) Petitioner-wife has apprehensions in attending the divorce petition at Jalandhar as respondent and his family allegedly have a great influence with higher ups at Jalandhar.

e) It is stated that there are four other cases already pending in various Courts in Chandigarh, the same being:

1. Case filed by the petitioner under Section 12 of the Protection of Women from Domestic Violence Act, bearing DV No.22/2022;
2. Petitioner is also defending Civil Suit No.240/2021 filed by Charanjit Singh Pruthi, father of the respondent-husband, at Chandigarh;
3. Petitioner is also defending Civil suit no. 253 of 2021 filed by an employee of the above-mentioned father-in-law of the petitioner, which is pending before the Id. Civil Judge (Senior Division), Chandigarh.
4. Petitioner is also defending another Civil suit no. 252 of 2021 filed by another employee of the father-in-law of the petitioner, which is also pending before the Id. Civil Judge (Senior Division), Chandigarh.

In response, Id. Senior Counsel for the respondent-husband states that after filing of the petition, the petitioner has left the country and taken up permanent residence and employment in Australia and is still in Australia. It is submitted that the present case is being pursued on her behalf by her Attorney Holder, who is her father. The petitioner is having annual income of 1,33,716/- Australian Dollars, from her employment in Australia, as is evident from the affidavit filed before the Court in the case under the Domestic Violence Act. Rest of the averments made in the reply are counter allegations against the petitioner. Prayer made in the present Transfer Application has been opposed by stating that no ground for transfer of divorce petition from Jalandhar to Chandigarh is made out and that it is not law of the land that the divorce proceedings must be conducted at the place where the marriage was solemnized.

Learned Sr. Counsel for the respondent-husband has relied upon judgments of the Hon'ble Supreme Court in **Preeti Sharma v Manjit Sharma, 2005(110 SCC 535; Anindita Das v Srijit Das, 2006(9) SCC 197** and judgments of this Court in **Gurjeet Bajaj v Rishi Dua, 2012(3) RCR (Civil) 941; and Sunita v Surinder, 2014(610 RCR (Civil) 889.**

In rebuttal, it is submitted by Id. Sr. Counsel for the petitioner that the petitioner though admitted to be presently in Australia, she is definitely not residing there on a permanent basis and is likely to return soon. It is further submitted that the petition filed by the respondent-husband is being attended to by the 70-year-old father of the petitioner.

I have heard Id. Sr. Counsel for the parties, and given my thoughtful consideration to the rival submissions made by them.

Admittedly, though the petitioner is currently in Australia, however it has been stated that she is not there on a permanent basis, and likely to return soon. Further, that the aged 70-year-old father who is Attorney-holder of the petitioner is attending to the proceedings in the meantime, and being old and infirm and suffering from various ailments it is difficult for him to travel the distance of 150 kms frequently. It is also admitted that there are four other cases pending before various Courts in Chandigarh, in which the respondent and his family are appearing regularly.

Accordingly, in view of the undisputed position as above, this Court deems it fit to allow the present petition.

Moreover, the law regarding all disputes arising from matrimonial discord is very clear and unequivocal. Reference may be made to **N.C.V. Aishwarya vs A.S. Saravana Karthik Sha," 2022 Live Law (SC) 627;**

and “**Sumita Singh vs Kumar Sanjay**”, 2002 SC 396 and “**Rajani Kishor Pardeshi vs Kishor Babulal Pardeshi**”, 2005(12) SCC 237

For the reasons stated above, the present Transfer Application is allowed with the following directions:-

- a) The petition filed by respondent husband bearing no. DMC/2148/2019 titled as ‘Dr. Harnoor Singh v Dr. Inderpreet Santokh’ filed u/s 13 of the Hindu Marriage Act, 1955 (Annexure P-1) is transferred from the Court of Principal Judge, Family Court, Jalandhar to a court of competent jurisdiction at Chandigarh.
- b) The Id. District Judge, Jalandhar is directed to transfer complete record pertaining to the aforesaid case to District Judge, Chandigarh.
- c) The parties, through their counsel, are directed to appear before the District & Sessions Judge, Chandigarh on 13.3.2023.
- d) The District Judge, Chandigarh will assign the said petition to a Court of competent jurisdiction.

The Court concerned, at Chandigarh will accommodate them with one date in one calendar month.

Application(s), if any, also stand disposed of.

(Nidhi Gupta)
Judge

14.02.2023
Joshi