

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

**Transfer Application No. 92 of 2021
Date of decision: 08.02.2023**

Priyanka Devi

.....Petitioner

vs

Aseem Narang

.....Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. A.P.S. Rehan, Advocate
for the petitioner.

Dr. Payel Mehta, 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 respondent-husband under Section 13(1)(i-a)(i-b) of the Hindu Marriage Act, 1955 (for short 'the Act') titled "Aseem Narang vs. Priyanka Devi" pending in the Court of Additional District Judge, SAS Nagar (Mohali) to a Court of competent jurisdiction at Mukerian, District Hoshiarpur.

2. In response to the notice of motion issued, the respondent has put in appearance through counsel and controverted the contents of the Transfer Application.

3. Learned counsel for the petitioner has contended :-

- i) That the parties were married on 30.4.2015 according to Hindu rites and rituals.

- ii) That a girl child was born out of this wedlock, who is around 7 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 27.9.2020 and living with her parents at their mercy at Mukerian, District Hoshiarpur.
 - iv) That the petitioner is employed and presently posted at Chandigarh and working in the Department of NCC and the girl child is presently living with her parents at Mukerian, District Hoshiarpur and the respondent-husband, who is presently posted as District Technical Co-ordinator, Office of Deputy Commissioner at Moga, is not paying anything to her towards maintenance.
 - v) That the respondent-husband has filed the petition under Section 13(1)(i-a)(i-b) of the Act, which is pending before the Additional District Judge, SAS Nagar (Mohali).
 - vi) That the proceedings arising out of petitions :-
 - (a) under Section 12 of the Protection of Women from Domestic Violence Act, 2005; and
 - (b) under Section 125 Cr.P.C.;filed by the petitioner-wife, are pending in the Courts having competent jurisdiction at Mukerian, District Hoshiarpur.
 - vii) That the distance between place of residence of the petitioner-wife i.e. Mukerian, District Hoshiarpur and the place of proceedings under Section 13(1)(i-a)(i-b) of the Act, 1955 filed by the respondent-husband, pending before the Additional District Judge, SAS Nagar (Mohali), is about 225 kilometers on one side.
4. It is inter alia on these grounds that petitioner prays for transfer of the case, as detailed in para 1 above.
5. By controverting the facts mentioned in the Transfer Application, learned counsel for the respondent has submitted that

first of all it is pertinent to contend that the petitioner is admittedly employed in Government job and presently posted at Chandigarh and working in the Department of NCC, and the cases under Section 125 Cr.P.C. and under the Domestic Violence Act, pending before the Family Court at Mukerian, District Hoshiarpur are being pursued by father of the petitioner, namely, Ashok Kumar. Secondly, in case the petitioner is not having any intention to harass and humiliate the respondent mentally or physically, she should not have any objection in case the proceedings of the petition filed by the respondent under Section 13(1)(i-a)(i-b) of the Act, pending before the Court of Additional District Judge, SAS Nagar (Mohali), would continue at the same place because the petitioner is presently posted in Chandigarh and the said petition is pending consideration at Mohali, in the tricity itself and she can attend the proceedings very easily here. Learned counsel for the respondent further contends that despite the aforesaid fact, if the petitioner remains adamant to transfer the petition filed by the respondent under Section 13(1)(i-a)(i-b) of the Act from Mohali to the Court of competent jurisdiction at Mukerian, District Hoshiarpur, the clear purpose of the same would be to harass the respondent and his family members physically and mentally. Learned counsel for the respondent has further submitted that as per the contents of the petition, the petitioner is suffering from Endometriosis and the doctors had not suggested her to travel, this would also be a good reason to not transfer the petition in question from Mohali to Mukerian, District Hoshiarpur. The respondent has also filed an affidavit narrating the facts of his as well as petitioner's present place of posting and the ex-

parte proceedings against him with regard to the maintenance, and he has also submitted in the same that against the ex-parte proceedings regarding grant of maintenance, he has also preferred an application seeking setting aside of ex-parte proceedings. Learned counsel for the respondent further contended that in case the petition, which is the subject matter, is transferred to District Hoshiarpur, it would not only affect the life of the respondent (who as per his affidavit, has already been transferred from Mohali to Moga) and his family members adversely, rather cause unnecessary delay in disposal of the case. Learned counsel has further contends that since the petitioner is presently posted in Chandigarh, the petitions filed by her under Sections 125 Cr.P.C. and under the Domestic Violence Act, pending before the Family Court, Mukerian, District Hoshiarpur be also transferred to Mohali.

6. I have heard learned counsel for the parties and gone through the records carefully.

7. In view of the facts as enumerated above, I am of the view that after change of circumstances that the petitioner-wife has been appointed and joined the Government job and presently posted in Chandigarh, which place, being tricity, is not far away from the Courts at Mohali, where the proceedings of petition, filed under Section 13(1)(i-a)(i-b) of the Act, filed by the respondent-husband, are going on and it will be in the betterment of justice if the same is not transferred to Mukerian, District Hoshiarpur because in case it is transferred there, it would unnecessarily not only disturb the life of respondent-husband, rather it would adversely affect the smooth and

early disposal of the matter. Even after joining by the petitioner in Chandigarh, there is no reason to transfer the petition, which is the subject matter of this petition, to the Court of competent jurisdiction at Mukerian, District Hoshiarpur.

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 08, 2023
Vijay Asija

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned
Whether Reportable

YES/NO
YES/NO