

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

**Transfer Application No. 247 of 2023
Date of decision: 24.02.2023**

Amandeep Kaur

.....Petitioner

vs

Jasvinder Singh Dhanda and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Tanvir Singh Attariwala, Advocate
for the petitioner.

NIDHI GUPTA, J.(Oral)

1. Prayer in this petition filed by petitioner/daughter-in-law is for transfer of the Civil Suit bearing No.CS/1039/21, titled as 'Jasvinder Singh Dhanda vs. Amandeep Kaur and others' (Annexure P-2), filed by respondent-father-in-law, for damages against defendant No.1/petitioner herein and others on account of leveling false allegations against the plaintiff/respondent No.1 herein and his son with an intention to cause mental, physical, financial, spiritual and other losses, pending before the Civil Judge (Sr. Divn.), Mohali to a Court of competent jurisdiction at Fatehgarh Sahib.

2. Learned counsel for the petitioner submits :-

- i) That the marriage between petitioner and son of respondent No.1, namely, Gagandeep Singh was solemnized on 15.12.2018 according to Sikh rites and rituals.

- ii) That no child was born out of this wedlock.
- iii) That the petitioner is living separately from her husband since 18/19.08.2020 and living with her parents at their mercy at Fatehgarh Sahib.
- iv) That the petitioner is unemployed, having no source of income and totally dependent upon her parents and the husband (son of the respondent No.1) is not paying anything to her towards maintenance.
- v) The respondent No.1-father-in-law has filed Civil Suit bearing No.CS/1039/21 (details of which is mentioned above in para 1 of this order), which is pending before the Court of learned Civil Judge (Sr.Divn.), Mohali.
- vi) The proceedings arising out of petitions :-
 - (a) under Section 26 of the Protection of Women from Domestic Violence Act, 2005; and
 - (b) FIR No.41 of 2021, under Sections 406 and 498-A IPC, registered at Police Station Fatehgarh Sahib against her husband and respondent No.1;filed by the petitioner, are pending in the Courts having competent jurisdiction at Fatehgarh Sahib.
- vii) That the distance between place of residence of the petitioner i.e. Fatehgarh Sahib and the place of proceedings i.e. Civil Suit bearing No.CS/1039/21 (details of which is mentioned above in para 1 of this order) filed by the respondent No.1 (father-in-law of the petitioner), pending before the Court of learned Civil Judge (Sr.Divn.) Mohali, is about 40 kilometers one side.
- viii) That there is no proficient male member in the family of petitioner who can accompany her to the Court of proceedings pending at Mohali. It is submitted that respondent No.1 is harassing and threatening the petitioner that whenever she will come to Mohali, she will not be left spare.

3. It is *inter alia* on these grounds that petitioner prays for transfer of the case, as detailed in para 1 above.

4. I have heard learned counsel for the petitioner.

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.”

5. 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.”

6. 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.

7. After going through the entire paper-book, considering the fact that issuance of notice to the respondent has the consequences of staying further proceedings before the trial Court, otherwise the petitioner-wife will have to bear the litigation expenses and transportation expenses and in case, notice of motion is issued, even the respondent-husband has to bear the litigation expenses and in view of 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 Civil Suit bearing No.CS/1039/21 filed by respondent No.1, for damages against the defendant No.1 (petitioner herein) and others on account of

leveling false allegations against the plaintiff (respondent No.1 herein) and his son with an intention to cause mental, physical, financial, spiritual and other losses, titled as ‘Jasvinder Singh Dhanda vs. Amandeep Kaur and others’, pending in the Court of Civil Judge (Sr. Divn.) Mohali is transferred to a Court of competent jurisdiction at Fatehgarh Sahib.

- b) The Id. District Judge, Mohali is directed to transfer complete record pertaining to the aforesaid case to District Judge, Fatehgarh Sahib.
- c) The parties are directed to appear before the District & Sessions Judge, Fatehgarh Sahib on 31.3.2023.
- d) The District Judge, Fatehgarh Sahib will assign the said petition to the Court of competent jurisdiction.

8. The concerned Court at Fatehgarh Sahib 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.

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

10. 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.**

12. As already noticed above, since the petition is being disposed of without issuing notice to the respondent, accordingly, in these peculiar circumstances, in order to ensure appearance of the parties before the District Judge, Fatehgarh Sahib on 31.3.2023, it is

directed that a copy of this order be sent to the respondent through registered post, besides sending a copy of this order to the District Judges concerned through e-mail. Petitioner through her counsel, present in the Court, is directed to ensure her appearance accordingly.

Disposed of.

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

February 24, 2023
Vijay Asija

(NIDHI GUPTA)
JUDGE

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