

2023:PHHC:118641

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

TA No.230 of 2022 (O&M)
Date of decision: 11.09.2023

Poonam Bala
....Petitioner
Versus
Barinder Pal Singh
....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Praveen Sharma, Advocate for the petitioner.
Mr. Rajiv Rathor, Advocate for the respondent.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this petition is for transfer of the following
petitions, pending in the Family Court, Moga to the competent Court of
jurisdiction at Mohali:-

1. *GW/37/2019 titled as "Poonam Bala vs Barinder Pal Singh"*
2. *CS/485/2020 titled as "Karnail Singh vs Poonam Bala"*
3. *CM/1187/2021 titled as "Poonam Bala vs Barinder Pal Singh"*
4. *CS/1219/2021 titled as Poonam Bala vs Karnail Singh"*

Counsel for the petitioner has argued that on account of a
matrimonial discord, the petitioner has filed the aforementioned
petitions i.e. *GW/37/2019 titled as "Poonam Bala vs Barinder Pal
Singh"*, at Ludhiana *CM/1187/2021 titled as "Poonam Bala vs
Barinder Pal Singh"* and *CS/1219/2021 titled as Poonam Bala vs
Karnail Singh"* at Moga.

Counsel for the petitioner has further submitted that the
respondent/husband has filed the Civil Suit No.485 of 2020, titled as
"Karnail Singh vs Poonam Bala", as a counter-blast, before the trial

Court at Moga.

Counsel for the petitioner has also argued that on account of a petition filed by the respondent/husband, the petitioner is facing great difficulty in prosecuting the said case as there is a distance of about 161 Kms from Mohali to Moga.

Counsel for the petitioner has further contended that the petitioner is having a minor child, who is living in her care and custody and she is facing difficulty to defend the case as she has to travel from Mohali to Moga.

Counsel for the petitioner has relied upon the judgments **“Sumita Singh vs Kumar Sanjay”**, 2002 SC 396 and **“Rajani Kishor Pardeshi vs 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.”*

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.

Counsel for the respondent has, however, not disputed the factual position but opposed the submissions made by counsel for the petitioner.

After hearing the counsel for the parties, considering the fact that the petitioner/wife will have to bear the litigation expenses and transportation expenses and in view of the judgments i.e. ***Sumita Singh’s case (supra)*** and ***Rajani Kishor Pardeshi’s case (supra)*** passed by the Hon’ble Supreme Court, this Court deem it appropriate to allow the present petition, subject to the following conditions:-

1. *The petitions i.e. GW/37/2019 titled as “Poonam Bala vs Barinder Pal Singh”, pending at Ludhiana, CS/485/2020, titled as “Karnail Singh vs Poonam Bala” CM/1187/2021 titled as “Poonam Bala vs Barinder Pal Singh” and CS/1219/2021 titled as Poonam Bala vs Karnail Singh” pending at Moga will be transferred to the competent Court of jurisdiction at Mohali.*
2. *The District Judge, Mohali, will assign the said petition to the competent Court of jurisdiction.*
3. *The trial/family Court, Ludhiana and Moga are directed to transfer all the record pertaining to the aforesaid cases to District Judge, Mohali.*
4. *The parties are directed to appear before the trial Court, Mohali, within a period of 01 month from today.*

Disposed of.

(ARVIND SINGH SANGWAN)
JUDGE

11.09.2023

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Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No