

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

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TA No.174 of 2022 (O&M)

Date of decision: 06.01.2023

Amita Mittal

...Petitioner(s)

v

Pardip Kumar Mittal

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Dhruv Gupta, Advocate for the petitioner.

Mr. Sanjay Jain, Advocate for the respondent.

NIDHI GUPTA, J.(ORAL)

1. Prayer in this petition filed by petitioner wife is for transfer of the petition bearing No.HMA-1136 of 2021 filed by the respondent-husband under Section 13 of the Hindu Marriage Act,1955, titled “Pardip Kumar Mittal vs. Amita Mittal” pending in the Court of Principal District Judge, Family Court, Ambala, to a court of competent jurisdiction at Kurukshetra.

Mr. Dhruv Gupta, Advocate, puts in appearance on behalf of the petitioner and files his vakalatnama, which is taken on record.

2. Learned counsel for the petitioner, inter alia, submits:

i) that the marriage between the parties was solemnized on 28.06.2005 according to Hindu rites and rituals.

ii) that no child was born out of this wedlock.

iii)that the petitioner is working as Assistant Professor Biotechnology Dept., UIET, Kurukshetra University, Kurukshetra.

iv) that the petitioner has filed complaint before the Women's Commission.

v) that the distance between the place of residence and place of proceedings is approx. 62 kms.

3. Learned counsel for the respondent opposed the present petition and states that the parents of the petitioner are residing in New Delhi and the marriage was also solemnized there. Learned counsel refers to Annexures R1 to R4 to submit that the petitioner has filed complaints before the Delhi Commission for Women and even during the mediation proceedings at Rohini Court, Delhi, petitioner's accomplices had harassed the respondent regarding which he has filed a complaint (Annexure R5). Thus, he states that when the petitioner can travel from Kurukshetra to Delhi to attend to her complaints then she can easily attend the court proceedings at Ambala, which is just 49 kms. away from Kurukshetra. It is further submitted that even during pendency of the present Transfer Application, the petitioner had filed an FIR no. 607 of 2022 against the respondent u/d 406, 498-A IPC, where summons have been issued to the respondent to appear at the Police Station, Paschim Vihar West, New Delhi.

4. I have heard learned counsel for the parties.

5. I find merit in the submissions advanced on behalf of the respondent. 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, ld. Counsel for the petitioner is unable to controvert the above facts canvassed on behalf of the respondent. It is clearly evident from Annexures R1 to R4, and Annexure R6 that the petitioner has filed various complaints against the respondent and his family members before the Delhi Commission for Women. A perusal of Annexure R-4 shows that the petitioner has given her address therein as '*Ms. Amita Mittal, r/o GH-8/210, Paschim Vihar, New Delhi -110063*'. Even the FIR no. 607 of 2022

Admittedly, the petitioner has been pursuing her complaints at Delhi, which is 154 kms. away from Kurukshetra. Whereas, the distance between Kurukshetra and Ambala is only about 50kms. Accordingly, I find that no inconvenience will be caused to the petitioner in contesting the cases at Kurukshetra. Further, as per report of the Mediator dated 19.12.2022, even mediation between the parties has been failed.

6. Moreover, in other similar cases like this 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.**

7. Accordingly, in view of the facts and law as noticed above, the present petition stands dismissed. All the pending miscellaneous application(s), if any, are also disposed of.

06.01.2023

ashok

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No

(Nidhi Gupta)
Judge