

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

106

CRM-M-7440-2023
Date of Decision:-13.02.2023

Sushil Garg

.....Petitioner

Versus

Madhu Garg

.....Respondent

CORAM: HON'BLE MR. JUSTICE ALOK JAIN

Present: Mr. Rajnikant Upadhyay, Advocate for the petitioners.

ALOK JAIN, J. (Oral)

The present petition has been filed under Section 407 of the Code of Criminal Procedure 1973 *inter alia* praying for transfer of complaint under Sections 12, 18, 19, 20, 21 and 22 of Protection of women from Domestic Violence Act 2005 filed by the respondent, pending in the Court of learned Additional chief Judicial Magistrate, SAS Nagar Mohali from Mohali to competent Court at District Yamuna Nagar, Haryana.

Learned counsel for the petitioner has submitted that the children from the wedlock with the respondent-wife are residing with him and there is a distance of about 120 kms from Yamuna Nagar to Mohali and moreso, the entire day goes in travelling on the date of hearing. He also relies upon the order passed by this Court in Transfer Petition No.145 of 2022 (Annexure P-5), whereby the respondent-wife had sought the transfer of the case filed by the petitioner at Yamuna Nagar to Mohali and also relies upon the finding in the said order to the effect that the transfer from

Yamuna Nagar to Mohali will cause unnecessary harassment and inconvenience to the husband.

Learned counsel for the petitioner, on the above said grounds, has vehemently prayed for transfer of the said case to Yamuna Nagar.

After hearing learned counsel for the petitioner and perusing the record, it is transpired that the present petition has been filed only to create more disharmony among the parties and appears to be a pressure tactics as same has been filed after the transfer petition of the wife was dismissed. The petitioner has been appearing in these proceedings since inception and had he been in difficulty, he would have approached the Court much prior in time. As regards the difficulty of children, learned counsel has fairly stated that the daughters of the petitioner are 21 and 19 years old and the son is 16 years old, and therefore, they are not infants and do not need any constant care, moreso, the children of such age, have their own schedule of education and the petitioner himself is working as an employee with shuttering contractor. Even otherwise, the preponderance of law in case of transfer of proceedings has to favour the wife as she is out of the matrimonial house.

Without commenting on the facts of the case, as to whether, the respondent-wife left the matrimonial house on her own accord or was thrown out, in the light of the above, this Court finds no merit in the present petition and the same is accordingly, dismissed.

(ALOK JAIN)
JUDGE

13.02.2023

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Whether speaking/reasoned:- Yes/No
Whether Reportable:- Yes/No