

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

CRM-M 19862/2023

Date of decision: July 13,2023

Palwinder Singh

.....**Petitioner**

v

Kulwinder Kaur

.....**Respondent**

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Surinder Singh Chahal, Advocate for the petitioner.

Mr. Jashanpreet Singh, AAG Punjab

Nidhi Gupta, J.(Oral)

Prayer in this petition filed by petitioner-husband is for transfer of the petition filed by respondent-wife under Section 125 of Code of Criminal Procedure,1973 bearing MNT 125/3/2023 from the Court of Principal Judge, Family Court, Khadoor Sahib, Tarn Taran to a court of competent jurisdiction at District Court, Sri Muktsar Sahib.

2. It is stated by Id. counsel for the petitioner:-

i) that the marriage between the parties was solemnized according to Sikh rites and rituals about 17-18 years ago;

ii) that from this wedlock one daughter namely Palakpreet Kaur and one son namely Pahulpreet Singh were born, who are now 16 years and 14 years of age respectively and residing with the petitioner;

iii) that relationship between the petitioner and respondent was cordial in the first couple of years but with the passage of time respondent developed strange habits and her

behaviour and conduct towards petitioner and children became bad to worse resulting in humiliation, physical and mental cruelty, agony, emotional distress at her hands and that she caused the death of the father of the petitioner by inflicting serious injuries on his private parts;

iv) that respondent is facing trial in case FIR No.106 dated 20.7.2018 under Section 304 IPC, PS Kabar Wala, District Sri Muktsar Sahib for causing the death of father of the petitioner, in the Court of District and Sessions Judge, Sri Muktsar Sahib;

v) that respondent is lodged in Central Jail, Faridkot;

vi) that respondent has filed a petition u/s 125 Cr.PC at Khadoor Sahib to harass the petitioner and his family;

vii) that petitioner has filed petition under Section 13 of the Hindu Marriage Act, 1955 for dissolution of marriage by a decree of divorce which is pending in the Court of District Judge, Sri Muktsar Sahib;

viii) that respondent has filed the said petition at Khadoor Sahib, District Tarn Taran to harass the petitioner as he has the responsibility of family, agriculture, household chores, his minor children, and his mother who is suffering from Cancer;

ix) that petitioner is residing at Village Mohlan, Sri Muktsar Sahib and distance to Khadoor Sahib is approximately 140 kilometers;

x) that petitioner apprehends threat to his life at the hands of respondent's family members as she would try to harass the petitioner and take revenge from her;

xi) that it would be convenient for respondent to pursue her petition u/s 125 Cr.PC at Sri Muktsar Sahib as she is already facing criminal trial/ contesting divorce petition there.

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

4 Per contra, ld. State counsel opposes the prayer on the ground:-

- i) that respondent has no independent source of income to maintain herself as she does not own any moveable or immoveable property;
- ii) petitioner has legal obligation to maintain respondent;
- iii) petitioner is a man of means as he owns agricultural land and his monthly income is more than Rs.60,000/- per month;

5. Heard ld. counsel for the parties and perused the paper book. Order sheet shows that Notice issued to the respondent wife was returned back unserved with the report that she is confined in Muktsar Jail.

6. No doubt, convenience of wife is usually considered while transferring matrimonial proceedings, however, at the same time this Court cannot lose sight of the fact that respondent is already facing criminal trial and contesting divorce petition at Sri Muktsar Sahib. It is also not disputed that minor children are residing with petitioner at Sri Muktsar Sahib. Further it is also not disputed that besides minor children, petitioner has also to look after his mother, agricultural land, and household chores. In these circumstances it will definitely be difficult for petitioner to travel from Sri Muktsar Sahib to Khadoor Sahib whereas it would not be so for the respondent as she has no such responsibilities. In this view of the matter, I deem it appropriate to allow the present petition, subject to the following conditions: -

- a) The petition filed by respondent wife, as detailed in para 1 is transferred from the Court of Principal Judge,

Family Court, Khadoor Sahib, District Tarn Taran to a court of competent jurisdiction at District Court, Sri Muktsar Sahib;

b) The Id. District Judge, Tarn Taran is directed to transfer complete record pertaining to the aforesaid case to District Judge, Sri Muktsar Sahib;

c) The parties are directed to appear before the District & Sessions Judge, Sri Muktsar Sahib on 16.08.2023;

d) The District Judge, Sri Muktsar Sahib will assign the said petition to the Court of competent jurisdiction.

8. The Court concerned, will accommodate them with one date in one calendar month.

10 Disposed of.

13th July, 2023.
Joshi

(Nidhi Gupta)
Judge