

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

Transfer Application No. 555 of 2022

Date of decision:-03.05.2023

Poonam Verma

.....Petitioner

Vs

Puneet Verma and another

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Abhinav Aggarwal, Advocate
for the petitioner.

Mr. Kirti Kumar, Advocate
For respondent No.1.

Mr. Vikram Jeet Singh, Advocate for
Mr. Manuj Pundir, Advocate
For respondent No.2.

NIDHI GUPTA, J.(Oral)

1. Prayer in this petition filed by petitioner-wife is for transfer of the petition filed by respondent No.1-husband under Section 13 of the Hindu Marriage Act,1955 (for short 'the Act') titled "Puneet Verma vs. Poonam Verma" pending in the Court of Addl. Principal Judge, Family Court, Jagadhri at Yamuna Nagar to a Court of competent jurisdiction at Karnal.

2. Learned counsel for the petitioner has contended :-

- i) That the parties were married on 09.12.2020.
- ii) That a male child was born out of this wedlock on 19.4.2022 and is in the care and custody of the petitioner.
- iii) That the petitioner-wife is living separately from the respondent No.1-husband and living with her parents at their mercy at Karnal.
- iv) That the petitioner is unemployed, having no source of income and totally dependent upon her parents and the

respondent No.1-husband, who is working in a private company and drawing handsome salary, is not paying anything to her towards maintenance.

- v) That the proceedings arising out of petition under Section 9 of the Act filed by the petitioner-wife, are pending in the Court having competent jurisdiction at Karnal.
 - vi) That the distance between place of residence of the petitioner-wife i.e. Karnal and the place of proceedings under Section 13 of the Act, filed by the respondent-husband, pending before the Addl. Principal Judge, Family Court, Jagadhri at Yamuna Nagar, is about 80 kilometers on one side.
 - vii) That there is no proficient male member in the family of the petitioner, who can accompany her to the Court of proceedings at Jagadhri at Yamuna Nagar as parents of the petitioner are of old age. Mother of the petitioner is suffering from diabetes and father is heart patient and the petitioner has to look after them.
3. It is inter alia on these grounds that petitioner prays for transfer of the case, as detailed in para 1 above.
4. Upon notice, respondents have put in appearance through counsels and controverted the contentions of the petitioner mentioned in the present petition. Learned counsel for respondent No.1-husband has contended that the petitioner is misleading the Court by concealing material facts by giving wrong facts and details. To oppose the present Transfer Application, learned counsel for respondent No.1-husband has firstly submitted that the petitioner has wrongly mentioned the distance as 80 kilometers on one side between place of her residence and the place of proceedings under Section 13 of the Act, rather the same is only 64 kilometers; secondly, the petitioner has misguided the

Court by stating that she is the only person who has to look after her old aged parents, rather, she has a brother, who is looking after the parents; and thirdly, learned counsel for respondent No.1-husband has submitted that neither respondent No.1-husband nor his family was informed by the petitioner or her family members about birth of the child. Learned counsel has submitted that since the very beginning the petitioner is lying and has filed the present petition with wrong facts just to harass the respondents.

4. I have heard learned counsel for the parties.

5. Besides the facts as noticed hereinabove, 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**, 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."

6. 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.”

7. 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.

8. In view of the facts mentioned above and 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 petition filed by respondent husband under Section 13 of Act, titled as 'Puneet Verma vs. Poonam Verma', pending in the Court of Addl. Principal Judge, Family Court, Jagadhri at Yamuna Nagar is transferred to a Court of competent jurisdiction at Karnal.
- b) The Id. District Judge, Yamuna Nagar is directed to transfer complete record pertaining to the aforesaid case to District Judge, Karnal.
- c) The parties are directed to appear before the District & Sessions Judge, Karnal on 14.6.2023.
- d) The District Judge, Karnal will assign the said petition to the Court of competent jurisdiction.

9. The concerned Court at Karnal 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.

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

11. 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.**

Disposed of.

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

03.05.2023

Vijay Asija

Whether speaking/reasoned

Whether Reportable

**(NIDHI GUPTA)
JUDGE**

YES/NO

YES/NO