

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

2023:PHHC:071004

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**TA No.636 of 2023 (O&M)
Date of decision: 16.05.2023**

Jagminderjit Kaur and another

...Petitioner(s)

vs

Tersem Singh

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Harpal Singh Sidhu, Advocate for the petitioners.

NIDHI GUPTA, J.(Oral)

1. Prayer in this petition filed by petitioners is for transfer of the suit for defamation bearing CIS No.CS/5704/2022 filed by respondent-husband, titled "Tarsem Singh vs. Harvir Kaur and another" pending in the Court of Civil Judge, Junior Division, Ludhiana to a court of competent jurisdiction at Amritsar.

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

- i) that marriage between petitioner No.1 and respondent was solemnized on 01.12.2019.
- ii) that one son was born out of the wedlock, who is in the custody of petitioner No.1.
- iii) that the distance between the place of residence and place of proceedings is 150 kms. (one side).
- iv) that petitioner No.1 is doing government job at Ajnala, which is 20 kms. from Amritsar.
- v) that petition filed under Section 13 of the Hindu Marriage Act, 1955, by the respondent has already been transferred to Amritsar by Co-ordinate Bench vide order dated 12.07.2022.

vi) that the following proceedings are also pending between the parties at Amritsar:-

- a. Petition under Section 125 Cr.P.C.
- b. Complaint under the Protection of Women from Domestic Violence Act, 2005.
- c. FIR No.55 dated 10.07.2021, registered under Sections 498-A and 406 IPC, at Police Commissionerate Amritsar.

3. I have heard learned counsel for the petitioners.

4. Besides the facts as noticed hereinabove, the legal position in such like cases as the present one is also very clear. Reference in this regard may be made in particular, to judgment rendered by the Hon'ble Supreme Court, in case of **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.”

5. 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.”

6. 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.

7. After going through the entire paperbook, considering the fact that issuance of notice to the respondent has the consequences of staying further proceedings before the trial Court, otherwise petitioner No.1-wife will have to bear the litigation expenses and transportation expenses and in case, notice of motion is issued, even the respondent-husband has to bear the litigation expenses and in view of 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) Suit for defamation bearing CIS No.CS/5704/2022 filed by respondent-husband, titled “Tarsem Singh vs. Harvir Kaur and another” pending in the Court of Civil Judge, Junior Division, Ludhiana is transferred to a court of competent jurisdiction at Amritsar.
- b) The ld. District Judge, Ludhiana is directed to transfer complete record pertaining to the aforesaid case to District Judge, Amritsar.
- c) The parties are directed to appear before the District & Sessions Judge, Amritsar on 02.06.2023.
- d) The District Judge, Amritsar will assign the said petition to the Court of competent jurisdiction.

8. The concerned Court at Amritsar 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.

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

10. I am supported in the above by 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.**

12. As already noticed above, since the petition is being disposed of without issuing notice to the respondent, accordingly, in these peculiar circumstances, in order to ensure appearance of the parties before the District Judge, Amritsar on 02.06.2023, it is directed that a copy of this

order be sent to the respondent(s) through registered post, besides sending a copy of this order to the District Judges concerned through e-mail. Petitioners through their counsel, present in the Court, are directed to ensure their appearance accordingly.

Disposed of.

16.05.2023
ashok
Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No

(Nidhi Gupta)
Judge