

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Sr. No.: 105

Criminal Miscellaneous No.M-33960 of 2022 (O & M)

Date of Decision: *March 22, 2023*

Renu

..... PETITIONER(S)

VERSUS

Rakesh

..... RESPONDENT(S)

. . .

CORAM: **HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA**

. . .

PRESENT: - Mr. J.S. Thind, Advocate, for the petitioner.

. . .

Tribhuvan Dahiya, J (Oral)

This is a petition seeking transfer of the case No.MNT18/2021 dated 15.01.2021 titled *Renu vs. Rakesh Kumar* (Annexure P-1) under Section 125 Cr.P.C. pending before the Family Court, Sirsa, filed by the petitioner-wife, to a competent Court of jurisdiction at Hisar.

2. Learned counsel for the petitioner contends that at the time filing of the petition under Section 125 Cr.P.C., before the Family Court at Sirsa, the petitioner-wife was staying in her matrimonial home there. She has now been turned out and has to stay with her parents at Hisar. Therefore, the instant petition seeking transfer of the case to Hisar has been filed. It is further submitted that the divorce petition filed by the respondent-husband at Sirsa has already been transferred to Hisar by this Court vide order dated 27.10.2022 passed in T.A.No.1293 of 2022. Other cases between the parties, i.e., FIR No.39 dated 24.05.2022 under Sections 323, 34, 406, 498-A, 506 IPC; and a domestic violence application, are also pending at Hisar. It is

further contended that the petitioner is facing difficulty in prosecuting the petitions/cases at Sirsa as distance between Sirsa and Hisar is about a hundred kilometers, and she has no independent source of income.

3. A reference in this regard can be made to judgment passed in *N.C.V. Aishwarya v. A.S. Saravana Karthik Sha*, 2022 Live Law (SC) 627, wherein the Hon'ble Supreme Court held as under:-

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.

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.

4. It is, therefore, well settled that while deciding the transfer of a matrimonial case at wife's instance, the Court is to consider her family circumstances, economic condition, her difficulty in travelling the distance for attending Court proceedings, and the husband's earnings. Other pending cases between the same parties at a place, is also a relevant consideration to decide the transfer application.

5. After considering the facts of the case as well as the settled law, this Court is of the view that the petitioner's transfer application deserves to be allowed by transferring the case to Hisar where she is staying with her parents. She has no independent source of income, and will have difficulty in travelling the distance of about a hundred kilometers to Sirsa, where the petition sought to be transferred is pending. Besides three other cases between the parties, as mentioned in para 2 above, are already pending adjudication at Hisar.

6. This petition is being finally disposed of without issuing notice to the respondent-husband, since under similar circumstances another case between the parties has already been transferred to the Courts at Hisar by disposing of the petitioner's earlier transfer application, T.A No.1293 of 2022. However, liberty is being granted to the respondent to seek revival of this petition in case the facts pleaded or submissions made by learned counsel for the petitioner are incorrect.

7. Accordingly, the petition is allowed, and the case No.MNT18/2021 dated 15.01.2021 titled *Renu vs. Rakesh Kumar* (Annexure

CRM No.M-33960 of 2022

[4]

P-1) is ordered to be transferred to a Court of competent jurisdiction at
Hisar.

(Tribhuvan Dahiya)
Judge

March 22, 2023
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Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No