

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

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**2023:PHHC:077903
TA No.697 of 2023(O&M)
Date of decision: 29.05.2023**

Ekta Goel**...Petitioner****vs****Kalpana Goel and others****...Respondents****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Vimal K. Gupta, Advocate for the petitioner.

NIDHI GUPTA, J.(Oral)

1. Prayer in this petition filed by petitioner-wife is for transfer of the civil suit for recovery bearing No.CS/105/2023 (Annexure P3), filed by respondent No.1/mother-in-law of the petitioner, titled "Kalpana Goel vs. Ekta Goel and others" pending in the Court of Addl. Civil Judge (Sr. Div.), Ambala to a court of competent jurisdiction at Karnal.

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

- i) that marriage between the petitioner and son of respondent No.1 was solemnized on 23.02.2019.
- ii) that one son was born out of the wedlock on 07.08.2020.
- iii) that the petitioner along with minor son is living in her parental home at Karnal.
- iv) that distance between the place of proceedings and place of residence is 80 kms. (one way).
- v) that petitioner has no source of income.
- vi) that petitioner's father health condition is not good and one kidney of her brother was fully damaged.
- vii) that the following cases are also pending between the parties at Karnal:-

- a. FIR No.465 dated 29.10.2021 registered under Sections 323, 354-A, 376, 377, 406, 498-A, 506

and 511 IPC, at Police Station Taraori, District Karnal.

b. Petition under 125 Cr.P.C. and son of the respondent No.1/husband of the petitioner is appearing therein.

3. I have heard learned counsel for the petitioner.

4. Besides the facts as noticed hereinabove, perusal of civil suit filed by respondent No.1 reveals that it is a suit for recovery of Rs.10,00,000/- along with interest @ 24% per annum till the realization of amount on account of malicious prosecution/complaints, defamation, damages, loss of reputation etc. to the plaintiff from the defendants on the basis of oral and documentary evidence under order 7 Rule 1 CPC. Clearly, the said civil suit arises out of a matrimonial dispute. The legal position in such like cases as the present one is 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. 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.

6. After going through the entire paperbook, considering the fact that issuance of notice to the respondents has the consequences of staying further proceedings before the trial Court, otherwise the petitioner-wife will have to bear the litigation expenses and transportation expenses and in case, notice of motion is issued, even the respondents have to bear the litigation expenses and in view of the judgment i.e. **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 civil suit for recovery bearing No.CS/105/2023 filed by respondent No.1/mother-in-law of the petitioner, titled “Kalpana Goel vs. Ekta Goel and others” pending in the Court of Addl. Civil Judge (Sr. Div.), Ambala is transferred to a court of competent jurisdiction at Karnal.

b) The Id. District Judge, Ambala 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 12.07.2023.

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

7. 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.

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

9. As already noticed above, since the petition is being disposed of without issuing notice to the respondents, accordingly, in these peculiar circumstances, in order to ensure appearance of the parties before the District Judge, Karnal on 12.07.2023, 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. Petitioner through her counsel, present in the Court, is directed to ensure her appearance accordingly.

Disposed of.

29.05.2023

ashok

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No

(Nidhi Gupta)
Judge