

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

TA No.804 of 2023 (O&M)
Date of decision: 21.09.2023

Mukesh Sharma
....Petitioner
Versus
Ankur and Anr
....Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Ms. Shaveta Sanghi, Advocate
for the petitioner.

None for the respondent.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this petition is for transfer of the petition filed under Section 13 of the Hindu Marriage Act, pending in the Family Court, Jhajjar to the competent Court of jurisdiction at Camp Court Bahadurgarh, Jhajjar.

Counsel for the petitioner has argued that on account of a matrimonial discord, the petitioner has filed a petition under the Domestic Violence Act and also got registered an FIR under Sections 323 and 498-A IPC at Bahadurgarh, Jhajjar.

Counsel for the petitioner has also contended that the respondent/husband has filed a petition under Section 25 of the Guardians & Wards Act at Hisar, however, the same was later on, withdrawn and in order to harass the petitioner/wife, the respondent/husband has filed the petition under Section 13 of the Hindu Marriage Act before the Principal Judge, Family Court, Jhajjar.

Counsel for the petitioner has also argued that on account of a petition filed by the respondent/husband, the petitioner is facing great difficulty in prosecuting the said case as there is a distance of about 30 Kms from Camp Court Bahadurgarh, Jhajjar to Jhajjar.

Counsel for the petitioner has further contended that the petitioner is having a minor child, who is living in her care and custody and she is facing difficulty to defend the case as she has to travel from Camp Court Bahadurgarh, Jhajjar to Jhajjar.

Counsel for the petitioner has relied upon the judgments **“Sumita Singh vs Kumar Sanjay”**, 2002 SC 396 and **“Rajani Kishor Pardeshi vs 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.”*

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.

As per the office report, the respondent has been served, however, there is no representation on his behalf.

After hearing the counsel for the petitioner, considering the fact that the petitioner/wife will have to bear the litigation expenses and transportation expenses and in view of the judgments i.e. *Sumita Singh's case (supra)* and *Rajani Kishor Pardeshi's case (supra)* passed by the Hon'ble Supreme Court, this Court deem it appropriate to allow the present petition, subject to the following conditions:-

- 1. *The petition filed under Section 13 of the Hindu Marriage Act, pending before the Family Court, Jhajjar will be transferred to the competent Court of jurisdiction at Camp Court Bahadurgarh, Jhajjar.*
- 2. *The District Judge, Jhajjar, will assign the said petition to the competent Court of jurisdiction.*
- 3. *The Family Court, Jhajjar is directed to transfer all the record pertaining to the aforesaid case to District Judge, Jhajjar.*
- 4. *The parties are directed to appear before the trial Court, Camp Court Bahadurgarh, Jhajjar, within a period of 01 month from today.*
- 5. *The Court concerned, where the litigation pending between the parties, will accommodate them with one date in one calendar month.*

Disposed of.

(ARVIND SINGH SANGWAN)
JUDGE

21.09.2023

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Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No