IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(273)

TA-849-2023 (O&M)
Date of decision: 04.10.2023

Bhupinder Kaur

....Petitioner

Vs.

Charanjit Singh

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. T.S. Attariwala, Advocate
for the petitioner.

Mr. Zubin Chhura, Advocate
for the respondent.

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ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for transfer of the petition filed by the respondent-husband under Section 13 of the Hindu Marriage Act, pending before the Family Court, Kapurthala to the competent Court of jurisdiction at Fazilka.

Learned counsel for the petitioner has argued that on account of matrimonial discord, the petitioner has filed a petition under Section 125 Cr.P.C., a complaint under the Protection of Women from Domestic Violence Act, 2005, another complaint has been submitted to SSP, Fazilka, an FIR under Sections 498A, 323, 34 IPC and a petition under Section 9 of Hindu Marriage Act at Fazilka. It is further submitted that the petitioner is

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facing great difficulty in prosecuting the petition filed by the respondent, as there is a distance of about 200 kms from Fazilka to Kapurthala.

Learned counsel 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 Fazilka to Kapurthala.

Learned counsel 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 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."*

Learned counsel has further relied upon **N.C.V. Aishwarya Vs. 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*

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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."

Learned counsel for the respondent has opposed the prayer for transfer of petition under Section 13 of Hindu Marriage Act filed by the respondent-husband from Kapurthala to Fazilka.

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 family condition of the wife, custody of the minor child, economic condition of the wife, her physical health and earning capacity of the husband and most important, 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.

After hearing the counsel for the parties, considering the fact that the petitioner-wife will have to bear the litigation expenses and transportation expenses and in view of the judgments in **Sumita Singh'**s

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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 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, Kapurthala will be transferred to the competent Court of jurisdiction at Fazilka.*
2. *The District Judge, Fazilka will assign the said petition to the competent Court of jurisdiction.*
3. *The Family Court, Kapurthala is directed to transfer all the record pertaining to the aforesaid case to District Judge, Fazilka.*
4. *The parties are directed to appear before the Family Court, Fazilka within a period of 01 month from today.*
5. *The Family Court, Fazilka will make all the endeavour to refer the case before the Mediation and Conciliation Centre for exploring the possibility of amicable settlement between the parties.*
6. *The Court concerned, where the litigations between the parties are pending, will accommodate them with one date in one calender month.*

Present petition is disposed of accordingly.

[ARVIND SINGH SANGWAN]
JUDGE

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Whether speaking/reasoned : Yes/No

Whether reportable: Yes/No

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