

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

Transfer Application No. 518 of 2020 (O & M)

Date of decision: 21.03.2023

Richa Nagpal

.....Petitioner

vs

Tarun Nagpal

.....Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Deepak Girotra, Advocate
for the petitioner.

Mr. Ankur Dua, Advocate
For the respondent.

NIDHI GUPTA, J.(Oral)

1. Prayer in this petition filed by petitioner-wife is for transfer of the petition bearing No.HMA/677/2020 filed by respondent-husband under Section 13(i)(ia) (ib) and (iii) of the Hindu Marriage Act,1955 (for short 'the Act') titled "Tarun Nagpal vs. Richa Nagpal" pending in the Court of Additional Principal Judge, Family Court, Faridabad to a Court of competent jurisdiction at Rohtak.

2. Learned counsel for the petitioner has contended :-

- i) that the parties were married on 23.7.2000 according to Hindu rites and rituals.
- ii) that one male child was born out of this wedlock, who is aged about 22 and has been in the care and custody of the respondent.

- iii) that the petitioner-wife is living separately from the respondent-husband and living with her parents at their mercy at Rohtak.
 - iv) that the petitioner is unemployed, having no source of income and totally dependent upon her parents and the respondent-husband, who is earning Rs.30,000/- to Rs.40,000/- per month from the business of Cyber Café and also earning rental income to Rs.60,000/- to Rs.70,000/- per month, is not paying anything to her towards maintenance.
 - v) The proceedings arising out of petition under Section 125 Cr.P.C., filed by the petitioner-wife, are pending in the Court having competent jurisdiction at Rohtak.
 - v) That the distance between place of residence of the petitioner-wife i.e. Rohtak and the place of proceedings under Section 13(i)(ia)(ib) and (iii) of the Act, filed by the respondent-husband, pending before the Principal Judge, Family Court, Faridabad, is about 100 kilometers one side.
 - vi) that there is no proficient male member in the family of the petitioner, who can accompany her to visit and attend the Court of proceedings at Faridabad because the parents are old aged persons having the age of 70 years.
3. It is inter alia on these grounds that petitioner prays for transfer of the case, as detailed in para 1 above.
4. To controvert the averments made by the petitioner in this petition, learned counsel for the respondent has contended that the allegations leveled by the petitioner against the respondent-husband are baseless and concocted. Regarding transfer of the petition filed by the respondent-husband, learned counsel has submitted that the only son is residing with the respondent-husband

and he has been responsibly fulfilling all needs and requirements of his son since his childhood. Learned counsel submits that on the other hand the petitioner is not having any responsibility of any kind and enjoying the company of her parents and has filed the present petition for transfer of the petition filed by the respondent under Section 13(i)(ia)(ib) and (iii) of the Act just to harass the respondent physically and mentally. Learned counsel further contends that it is not more than two hours journey to reach the Court of proceedings at Faridabad and that too not on daily basis, just on the date fixed in the case. The petitioner has not shown her physical or mental inability which will prove that she cannot in a position to travel such a meager distance on the date of hearings.

5. I have heard learned counsel for the parties.

6. In view of the facts as enumerated above, I am of the view that unlike the respondent, the petitioner-wife is having no responsibilities as it is the respondent who is working and simultaneously single-handedly looking after his son and fulfilling all his duties in that respect i.e. the respondent is single-handedly responsible for the mental and physical welfare of the son as also has to ensure that all basic amenities are provided to him as also his career and education. In contrast, no extenuating circumstances have been brought to light by the petitioner, on the basis of which it is shown that she is not in a position to travel the relatively short distance of about 100 kilometers as admittedly, it is hardly a two-hour journey between Rohtak to Faridabad, and that too, not daily but only on the date of hearing.

7. This Court is well aware of the preponderance of law in cases of transfer emanating from matrimonial disputes is in favour of the wife. However, in certain similar cases as the present one, the Hon'ble Supreme Court, as well as this Court have refused relief to the wife. One such case which may be referred to is: **(2006) 9 SCC 197 'Anindita Das Vs. Srijit Das'** wherein Hon'ble Supreme Court under similar circumstances dismissed the wife's application seeking transfer of petition filed by the husband. Reference in this regard may also be made to two cases of this Court where, in similar circumstances this Court had dismissed transfer applications filed on behalf of the wife. These are: **TA no. 126 of 2018 Smt. Akhwinder Kaur Vs. Sh. Gurpreet Singh;** and **TA No. 299 of 2019 Nisha alias Manisha vs. Amarveer Yadav.**

8. Accordingly, in view of the facts and circumstances of the present case as noted above, as also the precedents of Case law as above, finding no merit in this petition, the same is hereby dismissed.

Pending application(s) if any stand disposed of.

March 21, 2023

Vijay Asija

**(NIDHI GUPTA)
JUDGE**

Whether speaking/reasoned

YES/NO

Whether Reportable

YES/NO