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IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

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Decided on : 05.12.2023

Tamanna

. . . Applicant/Petitioner

Versus

Hitendra Singh Ahlawat and another

. . . Respondent

**CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH**

**PRESENT:** Mr. Ajay Kumar Dahiya, Advocate  
for the applicant/petitioner.

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**SANJAY VASHISTH, J. (Oral)**

1. Present transfer application has been filed by the applicant/petitioner – wife, under Section 24 of CPC, for seeking transfer of the petition under Section 13 (1)(i) (ia) of the Hindu Marriage Act, 1955 bearing No.DMC/519/2023 titled as “Hitendra Singh Ahlawat vs. Tamanna and another” filed by respondent No.1 which is pending in the Court of Principal Judge, Family Court, Rohtak to any court of competent jurisdiction at Sonipat.

2. The present transfer petition has been filed, *inter alia*, on the following grounds:-

- i) That marriage of the applicant-petitioner/wife and respondent No.1-husband took place on 28.11.2017, as per Hindu rites and ceremonies in Royal Garden at Sonipat.
- ii) That out of the said wedlock, one male child namely Abhinav now aged 4 years was born who is residing with the applicant-petitioner.
- iii) That applicant-petitioner/wife has lodged three litigations against respondent No.1-husband, details of which are mentioned here under:-
  - a) FIR No.220 dated 19.04.2023 under Sections 323, 34, 406, 498-A, 506 IPC got registered at Police Station Sonipat City, in which charge-sheet has been filed and is pending before

learned Courts at Sonipat.

- b) Petition under Section 125 Cr.P.C. bearing No.MNT 100 of 2023 for grant of maintenance in which notice has been issued before learned Court of Additional Principal Judge, Family Court, Sonipat.
- c) One complaint bearing No.COMA 80 of 2023 under Protection of Women from Domestic Violence Act, 2005 before the Court of learned JMIC, Sonipat.
- v) That respondent has filed petition under Section 13 (1)(i) (ia) of the Hindu Marriage Act, 1955 bearing No.DMC/519/2023 titled as “Hitendra Singh Ahlawat vs. Tamanna and another” filed by respondent No.1 which is pending in the Court of Principal Judge, Family Court, Rohtak.
- vi) That petitioner-wife is residing with her parents at parental house and traveling from Sonipat to Rohtak is a distance of 75 kilometres, thus, causing extreme hardships to the applicant-petitioner/wife as well as minor child.
- vii) That the petitioner-wife is financially dependent on her parents and lacks convenient transportation options, thus, is compelled to rely on public transit, resulting in significant hardships.

3. As per office report, notice could not be issued to the respondents as learned counsel for the applicant/petitioner has not filed requisite process fee.

4. I have heard learned Counsel for the applicant/petitioner, and gone through the material available on record.

In the facts and circumstances similar to the present case, in paragraph Nos.9 and 10 of the judgment rendered in the case of **N.C.V. Aishwarya v. A.S. Saravana Karthik Sha**, AIR 2022 SC 4318, Hon’ble the Apex 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. Further, Hon’ble the Apex Court in **Rajani Kishor Pradeshi v. Kishor Babulal Pardeshi**, (2005) 12 SCC 237, 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.”

6. However, to avoid any misuse of the lenient view by the female litigants, Hon’ble the Apex Court in **Anindita Das v. Srijit Das**, (2006) 9 SCC 197, has also cautioned that the Courts should ensure that such leniency given to the female litigants should not be misused. Relevant Paragraph 3 of the

aforesaid judgment says as under:

*“3. Even otherwise, it must be seen that at one stage this Court was showing leniency to ladies. But since then it has been found that a large number of transfer petitions are filed by women taking advantage of the leniency taken by this Court. On an average at least 10 to 15 transfer petitions are on Board of each Court on each admission day. It is, therefore, clear that leniency of this Court is being misused by the women.”*

7. Thus, this Court is of the view that while adjudicating a transfer petition, in the context of a matrimonial dispute, the Court must take into account a comprehensive array of the following factors:-

- (a) Economic condition and earning capacity of the parties i.e. husband and wife;
- (b) Social standing of the wife and her dependency on her parents;
- (c) Custody of any minor children involved;
- (d) Education of the children, if any;
- (e) Physical well-being of both, i.e. wife and husband;
- (f) Pending litigation between the parties including criminal cases, if any;
- (g) Accessibility of the location i.e. from where the wife resides to the court where the case is pending; and
- (h) Availability of convenient commuting options

Undoubtedly, only a harmonious consideration of all these vital aspects would ensure a just and equitable decision in such cases.

8. Thus, applying the principles of law, laid down by Hon'ble the Apex Court in *N.C.V Aishwarya's case (supra)*, *Rajani Kishor's case (supra)* and *Anindita Das's case (supra)*, this Court deems it appropriate to allow the present petition with the following directions:-

- (i) The petition filed by the respondent No.1-husband under Section 13 (1)(i) (ia) of the Hindu Marriage Act, 1955 bearing No.DMC/519/2023 titled as “Hitendra Singh Ahlawat vs. Tamanna and another” which is pending in the Court of Principal Judge, Family Court, Rohtak is transferred to the Court of competent jurisdiction at Sonipat.
- (ii) The Id. District Judge, Rohtak is directed to transfer complete record pertaining to the aforesaid case to District Judge, Sonipat, by directing both the sides to appear before the Court of Id. District Judge, Sonipat, on a particular date for further proceedings.
- (iii) The District Judge, Sonipat will assign the said petition to the Court of competent jurisdiction.

9. The concerned Court at Sonipat shall diligently strive to amicably resolve the marital discord between the parties by referring the matter to the Mediation and Conciliation Centre.

10. The Court, where the matter is to be assigned after transfer, will accommodate the parties to the *lis* with at least, one date in a calendar month.

11. However, liberty is granted to the respondents to revive the present petition, if so advised, to contest the same, provided that:

- (i) The respondents will clear all arrears of maintenance amount, if any, in terms of a petition filed by the petitioner either under Section 125 Cr.P.C. or Section 12 of the Domestic Violence Act or Section 24 of the Hindu Marriage Act, or under any other law.

**AND**

- (ii) The respondents will file an affidavit giving undertaking to pay Rs.1,000/- per day, to the petitioner for attending the Court proceedings at Rohtak, on each and every date of hearing.

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**AND**

- (iii) The respondents will bring a demand draft of Rs.25,000/- towards the litigation expenses of the petitioner to pursue the case at Rohtak in case the respondent opts to contest this petition.

**OR**

- (iv) If the petitioner-wife has concealed any material fact or aspect while filing the current transfer application, with a purpose to mislead the Court for seeking transfer of the case.

**OR**

- (v) If the respondents are suffering from any substantial physical or mental disability or ailment.

12. For compliance of the order passed by this Court, Registry is directed to transmit copies of this order forthwith to learned District Judge, Sonipat and learned District Judge, Rohtak, through email(s) as well.

Petition stands **disposed of** in above terms.

**(SANJAY VASHISTH)**  
**JUDGE**

**December 05, 2023**

Lavisha

*Whether speaking/reasoned:*      *Yes/~~No~~*  
*Whether Reportable:*              *~~Yes~~/No*