

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

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**TA No.1127 of 2022 (O&M)
Date of decision: 18.10.2023**

Ranjeet Kaur

....Petitioner

Versus

Rakesh Kumar

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Ms. Kudrat Sareen, Advocate
for Mr. Sarju Puri, Advocate for the petitioner.

Mr. Pankaj Garg, Advocate
for the respondent.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this petition is for transfer of the petition filed under Section 9 of the Hindu Marriage Act, pending in the Family Court, Ludhiana to the competent Court of jurisdiction at S.B.S. Nagar.

Counsel for the petitioner has argued that on account of a matrimonial discord, the petitioner has already registered a complaint for registration of an FIR for cruelty and misappropriation of the dowry articles, which is pending with the local police.

Counsel for the petitioner has further submitted that the respondent/husband has filed the petition under Section 9 of the Hindu Marriage Act, as a counter-blast, before the Principal Judge, Family Court, Ludhiana.

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 120 Kms from S.B.S. Nagar to Ludhiana.

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.

This petition is pending since 2022 and till date, no reply has been filed on behalf of the respondent/husband.

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 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 9 of the Hindu Marriage Act, pending before the Family Court, Ludhiana will be transferred to the competent Court of jurisdiction at S.B.S. Nagar.*
- 2. *The District Judge, S.B.S. Nagar, will assign the said petition to the competent Court of jurisdiction.*
- 3. *The Family Court, Ludhiana is directed to transfer all the record pertaining to the aforesaid case to District Judge, S.B.S. Nagar.*
- 4. *The Family Court, S.B.S. Nagar 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.*
- 5. *The parties are directed to appear before the trial Court, S.B.S. Nagar, within a period of 01 month from today.*
- 6. *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

18.10.2023

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Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No