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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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Decided on: 18.12.2023

Sonia Singla

...Applicant/Petitioner

Versus

Sumit Kansal

...Respondent

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Ms. Reet Kaur Arora, Advocate for
Mr. J.K. Singla, Advocate
for the applicant/petitioner.

Mr. Abdul Aziz, Advocate,
for the respondent.

SANJAY VASHISTH, J. (Oral)

1. Present transfer application, under Section 24 CPC, has been filed by the petitioner-wife, for seeking transfer of the petitions (i) Civil Suit No.491 of 2023 titled as 'Sumit Kansal versus Sonia Singla', presently pending in the Court of Ld. Additional Civil Judge (Senior Division), Malerkotla, District Malerkotla, to any Court of competent jurisdiction at Mansa, District Mansa.

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

- i) Petitioner-wife and respondent-husband got married on 04.12.2015, at Mansa, according to the 'Saptapadi' ceremonies.
- ii) Out of the said wedlock, one child (son), now aged about 6 ½ years, was born, who is minor and staying/residing with the

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applicant – petitioner, and she is taking care of him all alone.

- iii) Petitioner-wife is working as Asstt. Professor at GHG Khalsa College of Pharmacy at Ludhiana and the respondent-husband is working as SDO/AEE in PSPCL, Ludhiana.
- iv) Present place of residence of the applicant/petitioner to Malerkotla, is at a distance of about 90-95 Kms. (one side), thus, causing extreme hardships to the petitioner-wife.
- v) Since the petitioner-wife is residing with her parents at Mansa, and due to the long distance, between Mansa and Malerkotla, she is compelled to rely on public transit, thus resulting in significant hardships.
- vi) Besides, following litigations are also pending between the parties:-
 - (i) FIR No.217 dated 19.07.2019 under Sections 323, 307 IPC registered by Police Station, Ludhiana.
 - (ii) Petition under Section 125 Cr.P.C., seeking maintenance.
 - (iii) Petition under Guardians and Wards Act.
 - (iv) Divorce petition under Section 13 of the Hindu Marriage Act, 1955 (already transferred by this Court vide order dated 24.02.2023, Annexure P-1).

3. On the other hand, Mr. Abdul Aziz, counsel for the respondent-husband vehemently argues that there is no substantial reason for transferring the proceedings of the divorce petition from the Court of Ld. Additional Civil Judge (Senior Division), Malerkotla, District Malerkotla to the Court of competent jurisdiction at Mansa, District Mansa. He also

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submits that keeping in view the conduct of the applicant-petitioner (wife), he is not entitled for equity based justice. Therefore, he opposed the prayer made in the present application for transfer of case from Malerkotla to Mansa.

4. I have heard learned counsel for the parties and gone through the material available on record.

5. In the facts and circumstances similar to the present case, in paragraph Nos. 9 & 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.”

6. 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

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transfer of legal proceedings from one court to another should ordinary be allowed, taking into consideration their convenience and the Courts should desist from putting female litigants under undue hardships.”

7. 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.”

8. Thus, this Court is of the view that while adjudicating a transfer petition initiated by the wife 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(s) between the parties including

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criminal cases, if any;

- (g) Accessibility of the location from where the wife resides to the court where the case is pending;
- (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.

9. Considering the aforementioned settled legal proposition of law and facts of the present case, the submission made by learned counsel for the respondent is not tenable and the same is hereby rejected.

10. 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, by issuing following directions:

- (i) Petitions i.e. (i) Civil Suit No.491 of 2023 titled as 'Sumit Kansal versus Sonia Singla' (ii) petition under Section 125 Cr.P.C. (iii) Divorce petition filed by the respondent/husband under Section 13 of HMA and (iv) petition under Guardians & Wards Act filed by the respondent/husband, presently pending in the Court of Ld. Additional Civil Judge (Senior Division), pending in the Courts at Malerkotla, District Malerkotla, are transferred to the Courts of competent jurisdiction within Sessions Division Ludhiana.
- (ii) Learned District Judge, Sangrur, is directed to transfer complete record pertaining to the aforesaid case to learned District Judge, Ludhiana, by directing both the sides to appear before the Court

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of learned District Judge, Ludhiana, on a particular date to be fixed by him, for further proceedings.

- (iii) On receipt of record of the case, learned District Judge, Ludhiana, will either keep the said case in his own Court or to assign the same to a Court having competent jurisdiction within Sessions Division Ludhiana, to try the same.
- (iv) The concerned Court at Ludhiana, shall diligently strive to amicably resolve the marital discord between the parties by referring the matter to the Mediation and Conciliation Centre.
- (v) After transfer at Ludhiana/Mansa, the concerned Court will accommodate the parties to the *lis* with at least one date in a calendar month.

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

Parties through their counsel are also directed to ensure their appearance accordingly.

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

(SANJAY VASHISTH)
JUDGE

December 18, 2023
‘Rajneesh’

Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No