

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M-46834-2023(O&M)

Date of decision: 03.10.2023

Satnam Singh

...Petitioner(s)

Vs.

Narinder Kaur & Another

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Davinder Singh Saini, Advocate
for the petitioner.

NIDHI GUPTA, J.

Present petition under Section 482 Cr.P.C. read with Section 407 Cr.P.C. is filed seeking transfer of case bearing No.MNT/27/2023 dated 31.05.2023 titled as "Narinder Kaur & Another Vs. Satnam Singh" filed under Section 125 Cr.P.C. (Annexure P1), pending in the Court of learned Principal Judge, Family Court, Samrala, District Ludhiana, to a Court of competent jurisdiction at District Rupnagar, where petition under Section 13 of Hindu Marriage Act is already pending for 13.10.2023 (Annexure P2).

2. The only ground on which learned counsel for the petitioner-husband seeks transfer of the above said petition from learned Family Court, Samrala, Ludhiana to a Court of competent jurisdiction at District Rupnagar, is that the petition filed by the petitioner under Section 13 of the Hindu Marriage Act, 1955 is already pending before the learned Family Court, Rupnagar.

3. No other argument is raised on behalf of the petitioner.

4. I have heard learned counsel for the petitioner.

5. Perusal of record of the case shows that marriage of the petitioner was solemnized with respondent No.1 on 07.02.2020. Out of this wedlock, respondent No.2 was born on 28.05.2021. Upon a Court query, learned counsel for the petitioner has admitted that respondent No.2 is currently in the care and custody of respondent No.1-wife. Learned counsel has further admitted that it takes about an hour to travel the distance from Samrala to Rupnagar. Therefore, it is clear that although no great inconvenience will be caused to the petitioner in travelling this short distance, however, in view of the fact that the minor child is in the custody of the respondent No.1, it will cause far greater trouble to her to traverse this distance.

6. Besides the above, even the legal position in such like cases as the present one, is well established. In this regard, judgment of the Hon'ble Supreme Court rendered in **N.C.V. Aishwarya vs A.S. Saravana Karthik Sha," 2022 Live Law (SC) 627**, is most relevant wherein the Hon'ble Supreme 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."

7. Further reliance can be placed upon the judgments in **"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."*

8. Even this Court in number of cases has followed the aforesaid principle of law. Accordingly, 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 from her place of residence as well as bearing of the litigation charges and travelling expenses. In the present case, even the petition under

Section 13 of Hindu Marriage Act, which is already pending before the learned Family Court Rupnagar has been filed by the petitioner himself.

9. In view of above discussion, I find no ground is made out to transfer case bearing No.MNT/27/2023 dated 31.05.2023 titled as “Narinder Kaur & Another Vs. Satnam Singh” filed under Section 125 Cr.P.C. (Annexure P1), from the Court of learned Principal Judge, Family Court, Samrala, District Ludhiana, to a Court of competent jurisdiction at District Rupnagar. Present petition accordingly stands **dismissed**.

10. Pending application(s) if any also stand(s) disposed of.

03.10.2023

Sunena

(Nidhi Gupta)

Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No