

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

Transfer Application No. 1310 of 2022

Date of decision:-28.03.2023

Hampreet Kaur

.....Petitioner

vs

Harpreet Singh Sachdeva

.....Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Ashish Grover, Advocate
for the petitioner.

Mr. Achin Gupta, Advocate
For the respondent.

NIDHI GUPTA, J.(Oral)

1. Prayer in this petition filed by petitioner-wife is for transfer of the petition filed by respondent-husband under Section 13 of the Hindu Marriage Act, 1955 (for short 'the Act') titled "Harpreet Singh Sachdeva vs. Hampreet Kaur" pending in the Court of Principal Judge, Family Court, Muktsar to a Court of competent jurisdiction at Faridkot.

2. In response to the notice of motion issued, the respondent has put in appearance through counsel and to controvert the contentions of the present petition, filed his reply.

3. Learned counsel for the petitioner has contended :-

- i) That the parties were married on 09.9.2019 according to Sikh rites and rituals.
- ii) That no child was born out of this wedlock.

- iii) That the petitioner-wife is living separately from the respondent-husband and living with her parents at their mercy at Faridkot.
 - iv) That 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 Faridkot.
 - v) That the distance between place of residence of the petitioner-wife i.e. Faridkot and the place of proceedings under Section 13 of the Act, filed by the respondent-husband, pending before the Principal Judge, Family Court, Muktsar, is about 60 kilometers of one side.
 - vi) That there is no proficient male member in the family of the petitioner, who can accompany her to the Court of proceedings at Muktsar.
 - vii) That vide report of the learned Mediator dated 16.12.2022, the mediation has failed.
4. It is inter alia on these grounds that petitioner prays for transfer of the case, as detailed in para 1 above.
5. The respondent has vehemently denied the allegations leveled by the petitioner-wife against him and with regard to the present Transfer Application, learned counsel for the respondent has submitted that the petitioner-wife can easily come to attend the proceedings at the Family Court, Sri Muktsar Sahib, because the place of proceedings i.e. Family Court, Sri Muktsar Sahib is at equal distance (about 33 kilometers) from the places where the petitioner-wife and the respondent-husband used to reside. Secondly, learned counsel for the respondent-husband has contended that the petitioner-wife has not shown any physical ailment or disability, due to which she is unable to travel such a meager distance, even though she has no liability of any

child as well. He further contended that just to prolong the litigation, delay the outcome of the proceedings and to harass the respondent-husband physically and mentally, she has filed the present Transfer Application.

6. I have heard learned counsel for the parties.

7. Besides the facts as noticed hereinabove, 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**, 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.”

8. Further reliance can be placed upon the judgments in **“Sumita Singh vs Kumar Sanjay”, 2002 SC 396** and **“Rajani Kishor Pardeshivs 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.”

9. 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 fro from her place of residence as well as bearing of the litigation charges and travelling expenses.

10. In view of the facts mentioned above and the judgments i.e. **Sumita Singh’s** case (supra), **Rajani Kishor Pardeshi’s** case (supra) and **N.C.V. Aishwarya’s** case (supra) passed by the Hon’ble Supreme Court, this Court deems it appropriate to allow the present petition, subject to the following conditions:-

- a) The petition filed by respondent husband under Section 13 of Act, bearing HMA No.294/2022 titled as ‘Harpreet Singh Sachdeva vs. Hampreet Kaur’, pending in the Court of Principal Judge, Family Court, Muktsar is transferred to a Court of competent jurisdiction at Faridkot.

- b) The Id. District Judge, Muktsar is directed to transfer complete record pertaining to the aforesaid case to District Judge, Faridkot.
- c) The parties are directed to appear before the District & Sessions Judge, Faridkot on 24.4.2023.
- d) The District Judge, Faridkot will assign the said petition to the Court of competent jurisdiction.

11. The concerned Court at Faridkot 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.

12. The Court concerned, where the litigation is pending between the parties, will accommodate them with one date in one calendar month.

13. I am supported by the decisions rendered by a Co-ordinate Bench of this Court in **TA No. 1315/2022, Rohini Arora v Nitin Talwar; TA No. 1322 of 2022, Jaswinder Kaur v Gurvinderjeet Singh; and TA No. 1323 of 2022, Usha Rani v Karmajit Singh.**

Disposed of.

Pending application(s), if any, stands disposed of.

March 28, 2023

Vijay Asija

**(NIDHI GUPTA)
JUDGE**

Whether speaking/reasoned

YES/NO

Whether Reportable

YES/NO