2023:PHHC:135720

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

242

TA No.1427 of 2022 (O&M)
Date of decision: 18.10.2023

Anita Rani

....Petitioner

Versus

Shiv Kumar

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Navjot Singh, Advocate
for the petitioner.

None for the respondents.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this petition is for transfer of the petition filed under Section 13 of the Hindu Marriage Act, pending in the Family Court, Camp Court Malerkotla, Sangrur to the competent Court of jurisdiction at Patiala.

Counsel for the petitioner has argued that on account of a matrimonial discord, the petitioner has filed a petition under Section 125 Cr.P.C. at Patiala.

Counsel for the petitioner has further submitted that the respondent/husband has filed the petition under Section 13 of the Hindu Marriage Act, as a counter-blast, before the Principal Judge, Family Court, Camp Court Malerkotla, Sangrur.

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 70 Kms from Patiala to Camp Court Malerkotla, Sangrur.

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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.

Counsel for the petitioner has, lastly, contended that when the case was referred to the Mediation and Conciliation Centre of this Court, the respondent/husband has neither appeared nor he has brought the minor child for meeting.

Even today, there is no representation on behalf of the respondent/husband.

After hearing the counsel for the petitioner, considering the fact that the petitioner/wife will have to bear the litigation expenses and

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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 13 of the Hindu Marriage Act, pending before the Family Court, Camp Court Malerkotla, Sangrur will be transferred to the competent Court of jurisdiction at Patiala.*
2. *The District Judge, Patiala, will assign the said petition to the competent Court of jurisdiction.*
3. *The Family Court, Camp Court Malerkotla, Sangrur is directed to transfer all the record pertaining to the aforesaid case to District Judge, Patiala.*
4. *The Family Court, Patiala 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, Patiala, 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: Yes/No
Whether reportable: Yes/No

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