

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

**Transfer Application No. 1391 of 2022**

**Date of decision: 31.01.2023**

**Mehak Rani**

**.....Petitioner**

**vs**

**Deepak Sharma**

**.....Respondent**

**CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Nagar Singh, Advocate  
for the petitioner.

Ms. Meenakshi Bali, Advocate for  
Mr. G.C. Shahpuri, 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 "Deepak Sharma vs. Mehak Rani" pending in the Court of Principal Judge, Family Court, Yamunanagar at Jagadhri to a Court of competent jurisdiction at Dera Bassi, District Mohali.

2. In response to the notice of motion issued, respondent has put in appearance through counsel. On joint request of learned counsel for the parties, vide order dated 09.12.2022 passed by this Court, the matter was referred to the Mediation and Conciliation Center of this Court to explore the possibility of some amicable settlement between the parties but as per report of the Mediator dated

18.1.2023, the mediation has failed. Thereafter, controverting the contents of the petition, the respondent has filed his reply.

3. Learned counsel for the petitioner has contended :-

- i) That the parties were married on 26.7.2020 according to Hindu 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 since February 2022 and living with her parents at their mercy at Dera Bassi, District Mohali.
- iv) That the petitioner is unemployed, having no source of income and totally dependent upon her parents and the respondent-husband, who is D.Pharmacy (Diploma in Pharmacy) license holder and earning more than Rs.50,000/- per month, is not paying anything to her towards maintenance.
- v) That the respondent-husband has filed the petition under Section 13 of the Hindu Marriage Act, which is pending before the Principal Judge, Family Court, Yamunanagar at Jagadhri.
- vi) That the proceedings arising out of petitions :-
  - (a) under Section 9 of the Hindu Marriage Act for restitution of conjugal rights; and
  - (b) under Section 24 of the Hindu Marriage Act for grant of maintenance and litigation expenses;filed by the petitioner-wife, are pending in the Courts having competent jurisdiction at Dera Bassi, District Mohali.
- vii) That the distance between place of residence of the petitioner-wife i.e. Dera Bassi, District Mohali and the place of proceedings under Section 13 of the Hindu Marriage Act, 1955 filed by the respondent-husband, pending before the Principal Judge, Family Court,

Yamunanagar at Jagadhri, is about 85 kilometers on one side.

viii) That there is no proficient male member in the family of the petitioner, who can accompany her to the Court of proceedings at Yamunanagar at Jagadhri.

4. It is *inter alia* on these grounds that petitioner prays for transfer of the case, as detailed in para 1 above.

5. By way of reply filed to the Transfer Application, learned counsel for the respondent has contended that the petitioner is a quarrelsome lady and from the very inception of marriage she refused to perform her marital duties as a wife and refused to manage the affairs of the house. He further contends that the petitioner herself left her matrimonial home at her own in February 2022. To controvert the prayer made in the present petition for transfer of the petition filed by the respondent under Section 13 of the Hindu Marriage Act, learned counsel for the respondent has submitted that the respondent is the only son of his old aged parents and is the only brother of two married sisters, who has to take care of his old aged parents and to perform his moral duties. Learned counsel has submitted that the respondent is presently doing job at Yamunanagar. It is because the respondent has to take care of his old aged parents, who are residing with him and to do his job, that it would not be appropriate if the petition, which is the subject matter in the present petition, is transferred to Dera Bassi, District Mohali. Learned counsel for the respondent has further pointed out that the petitioner is having no responsibilities at all as no child was born out of the said wedlock. Learned counsel for the respondent has further pointed out that prior to the marriage, the

petitioner was doing a job at Ambala and used to travel on regular basis from her residence to the work place, therefore, she should not have any issue with regard to travel such a meager distance of 85 kilometers and that too only on the date of hearing and not on regular basis. Learned counsel has contended that this very fact has been concealed by the petitioner and therefore she has not come to the Court with clean hands. Even otherwise also, in the proceedings under Section 13 of the Hindu Marriage Act before the Family Court, Yamunanagar at Jagadhri, she is represented by her counsel and that it is not compulsory for her to remain present in the said Family Court on each and every date of hearing except on exceptional circumstances when her presence is compulsory. Learned counsel finally submitted that the petitioner has filed the present petition just to harass the respondent physically and mentally, who is performing his social and moral duties towards his old aged parents and is doing his job.

6. I have heard learned counsel for the parties.

7. 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.”

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 Hindu Marriage Act, 1955, bearing HMA/118/2022 titled as 'Deepak Sharma vs. Mehak Rani', pending in the Court of Principal Judge, Family Court, Yamunanagar at Jagadhri is transferred to a Court of competent jurisdiction at Mohali.
- b) The Id. District Judge, Yamunanagar at Jagadhri is directed to transfer complete record pertaining to the aforesaid case to District Judge, Mohali.
- c) The parties are directed to appear before the District & Sessions Judge, Mohali on 31.3.2023.
- d) The District Judge, Mohali will assign the said petition to the Court of competent jurisdiction.

11. The concerned Court at Mohali will make all endeavours 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.

**January 31, 2023**  
Vijay Asija

**( NIDHI GUPTA )**  
**JUDGE**

|                           |        |
|---------------------------|--------|
| Whether speaking/reasoned | YES/NO |
| Whether Reportable        | YES/NO |