

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

**Transfer Application No. 1415 of 2022**

**Date of decision: 09.02.2023**

**Prabhjot Kaur**

.....Petitioner

**VS**

**Harbans Singh**

.....Respondent

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

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

Mr. Varun Sharma, 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 "Harbans Singh vs. Prabhjot Kaur" pending in the Court of Principal Judge, Family Court, Nihal Singh Wala, District Moga to a Court of competent jurisdiction at Ludhiana.

2. On 07.12.2022, on request of learned counsel for the petitioner, the matter was referred to the Mediation & Conciliation Center of this Court. As per report of the Mediator dated 06.2.2023, joint as well as separate sessions of the parties were held but despite best efforts, the mediation could not succeed.

3. Learned counsel for the petitioner has contended :-

- i) That the parties were married on 14.2.2021 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 since September 2021 and living with her old aged parents at their mercy at Ludhiana.
  - iv) That the petitioner is unemployed, having no source of income and totally dependent upon her parents and the respondent-husband is not paying anything to her towards maintenance.
  - v) The respondent-husband has filed the petition under Section 13 of the Hindu Marriage Act, which is pending before the Principal Judge, Family Court, Nihal Singh Wala, District Moga.
  - vi) The proceedings arising out of petition under Section 125 Cr.P.C. filed by the petitioner-wife, are pending in the Courts having competent jurisdiction at Ludhiana.
  - vii) That the distance between place of residence of the petitioner-wife i.e. Ludhiana 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, Nihal Singh Wala, Moga is about 85 kilometers of 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 Nihal Singh Wala, Moga.
4. It is inter alia on these grounds that petitioner prays for transfer of the case, as detailed in para 1 above.
5. Mr. Varun Sharma, Advocate has put in appearance and filed Memorandum of Appearance on behalf of respondent. Same is taken on record. The only objection raised by learned counsel for the respondent is that the distance between Nihal Singh Wala, Moga and

Ludhiana is only 65 kilometers not 85 kilometers as submitted by learned counsel for the petitioner and the petitioner should not have any problem to travel just 65 kilometers and that too not on daily basis but only on the date of hearing. Moreover the petitioner is having no responsibility of any kind as there is no child born out from this wedlock. He further submits that the present Transfer Petition has been filed just to harass the respondent mentally and physically as well as his family members.

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/36/2022 titled as 'Harbans Singh vs. Prabhjot Kaur', pending in the Court of Principal Judge, Family Court, Nihal Singh Wala, Moga is transferred to a Court of competent jurisdiction at Ludhiana.
- b) The Id. District Judge, Moga is directed to transfer complete record pertaining to the aforesaid case to District Judge, Ludhiana.
- c) The parties are directed to appear before the District & Sessions Judge, Ludhiana on 31.3.2023.
- d) The District Judge, Ludhiana will assign the said petition to the Court of competent jurisdiction.

11. The concerned Court at Ludhiana 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 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.

**February 09, 2023**  
Vijay Asija

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

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