

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

Transfer Application No. 1429 of 2022

Date of decision:-21.03.2023

Gurdarshan Kaur

.....Petitioner

VS

Supreet Singh

.....Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Umesh Aggarwal, Advocate
for the petitioner.

None for the respondent despite service.

NIDHI GUPTA, J.(Oral)

1. Prayer in this petition filed by petitioner-wife is for transfer of the application filed by respondent-husband under Order 9 Rule 13 of CPC, 1908, bearing No.CM/490/2022, titled as “Supreet Singh vs. Gurdarshan Kaur” pending in the Court of Principal Judge, Family Court, Amritsar to a Court of competent jurisdiction at Rupnagar (Ropar).

Though notice has been served upon the respondent but no one had appeared on his behalf on 16.12.2022. Today also, nobody is present to represent him. Accordingly, this petition is being decided in his absence.

2. Learned counsel for the petitioner has contended :-

- i) That the parties were married on 21.2.2018 according to Sikh rites and rituals.

- ii) That a male child was born out of this wedlock, who is around 2 years of age and is in the care and custody of the petitioner.
 - iii) That the petitioner-wife is living separately from the respondent-husband and presently living with her parents at their mercy at Morinda, District Rupnagar (Ropar). Earlier she was residing with her parents at Amritsar but later on shifted to Morinda Rupnagar (Ropar).
 - iv) That the proceedings arising out of petitions :-
 - (a) under the Protection of Women from Domestic Violence Act, 2005; and
 - (b) under Section 125 Cr.P.C.;filed by the petitioner-wife, are pending in the Courts having competent jurisdiction at Rupnagar (Ropar). The petition filed by the respondent-husband under Section 25 of the Guardian and Wards Act, 1890, titled “Supreet Singh vs. Gurdarshan Kaur”, bearing No.GW/54/2022, pending at District Court, Amritsar has also been transferred to Rupnagar (Ropar) vide order dated 29.11.2022 passed by this Court in TA-1458-2022, titled as “Gurdarshan Kaur vs. Supreet Singh”.
 - v) That the distance between place of residence of the petitioner-wife i.e. Morinda, District Rupnagar (Ropar) and the place of proceedings in application under Order 9 Rule 13 of CPC, filed by the respondent-husband, pending before the Principal Judge, Family Court, Amritsar, is about 200 kilometers of one side.
3. It is inter alia on these grounds that petitioner prays for transfer of the case, as detailed in para 1 above.
4. I have heard learned counsel for the petitioner.
5. 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.”

6. 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.”

7. 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.

8. 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 application filed by respondent husband under Order 9 Rule 13 CPC, bearing No.CM/490/2022 titled as 'Supreet Singh vs. Gurdarshan Kaur', pending in the Court of Principal Judge, Family Court, Amritsar, is transferred to a Court of competent jurisdiction at Rupnagar (Ropar).
- b) The Id. District Judge, Amritsar is directed to transfer complete record pertaining to the aforesaid case to District Judge, Rupnagar (Ropar).
- c) The parties are directed to appear before the District & Sessions Judge, Rupnagar (Ropar) on 25.5.2023.
- d) The District Judge, Rupnagar (Ropar) will assign the said application to the Court of competent jurisdiction.

9. The concerned Court at Rupnagar (Ropar) 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.

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

11. 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 21, 2023
Vijay Asija

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned	YES/NO
Whether Reportable	YES/NO