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209 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
TA-1456-2022 (O&M)
Decided on: 04.12.2023

Surjit Kaur @ Jaspreet

...Applicant/Petitioner

Versus

Angrej Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. Kehsav Chadha, Advocate for
Mr. Rahul Bhargava, Advocate,
for the Applicant/petitioner.

Mr. Puneet Kumar Bansal, Advocate.
for the respondent.

SANJAY VASHISTH, J. (Oral)

1. Present transfer application, under Section 24 CPC, has been filed by the petitioner - wife, for seeking transfer of the petition, bearing No. DMC/287/2018, filed by the respondent – husband, under Section 13 of the Hindu Marriage Act, 1955, titled as “Angrej Singh vs. Surjit Kaur @ Jaspreet”, presently pending in the Court of District Judge, Ferozepur, to any Court of competent jurisdiction at Kapurthala.

2. Learned counsel for the petitioner submits that distance between Ferozepur and Kapurthala, is about 110 KMs one side. There is no child, born out of the said wedlock. Further, he submits that in the Courts at Ferozepur, the respondent had instituted two divorce petitions, one bearing No.DMC/287/2018 and another bearing No. DMC/305/2018. The said fact was not in the knowledge of the petitioner herein and therefore, on withdrawal of petition bearing No.DMC/305/2018, by the respondent, the

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factum of pendency of proceedings in the divorce petition bearing No.DMC/287/2018 could not be followed. Resultantly, it was decreed *ex parte*, which has now been restored on the application filed by the petitioner herein and the same is pending in the Courts at Ferozepur. The said divorce petition bearing No.DMC/287/2018, is thus sought to be transferred in the Courts at Kapurthala.

Learned counsel for the petitioner further submits that the respondent is working as a Clerk in the office of an advocate at the Courts at Ferozepur, whereas the petitioner is in helpless situation and is totally dependent upon the mercy of her parents with whom she is presently staying.

3. While opposing the prayer made in the transfer application, learned counsel for the respondent submits that already petitioner has appeared and joined the proceedings in the divorce petition pending in the Courts at Ferozepur. Even written statement has been filed by her. Therefore, no purpose is left in considering the prayer made by the petitioner in the present transfer application.

4. I have heard learned counsel for the petitioner and gone through the material available on record.

5. In the facts and circumstances similar to the present case, in paragraph Nos. 9 & 10 of the judgment rendered in the case of **N.C.V. Aishwarya v. A.S. Saravana Karthik Sha**, AIR 2022 SC 4318, Hon'ble the Apex 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, Hon’ble the Apex Court in **Rajani Kishor Pradeshi v. Kishor Babulal Pardeshi**, (2005) 12 SCC 237, 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 ordinary be allowed, taking into consideration their convenience and the Courts should desist from putting female litigants under undue hardships.”

7. However, to avoid any misuse of the lenient view by the female litigants, Hon’ble the Apex Court in **Anindita Das v. Srijit Das**, (2006) 9 SCC 197, has also cautioned that the Courts should ensure that such leniency given to the female litigants should not be misused. Relevant Paragraph 3 of the aforesaid judgment says as under:

“3. Even otherwise, it must be seen that at one stage this Court was showing leniency to ladies. But since then it has been found that a large number of transfer petitions are filed by women taking advantage of the leniency taken by this Court. On an average at least 10 to 15 transfer petitions are on Board of each Court on each admission day. It is,

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therefore, clear that leniency of this Court is being misused by the women. ”

8. Thus, this Court is of the view that while adjudicating a transfer petition initiated by the wife in the context of a matrimonial dispute, the Court must take into account a comprehensive array of the following factors:-

- (a) Economic condition and earning capacity of the parties, i.e. husband and wife;
- (b) Social standing of the wife and her dependency on her parents;
- (c) Custody of any minor children involved;
- (d) Education of the children, if any;
- (e) Physical well-being of both, i.e. wife and husband;
- (f) Pending litigation(s) between the parties including criminal cases, if any;
- (g) Accessibility of the location from where the wife resides to the court where the case is pending;
- (h) Availability of convenient commuting options

Undoubtedly, only a harmonious consideration of all these vital aspects would ensure a just and equitable decision in such cases.

9. Thus, applying the principles of law, laid down by Hon’ble the Apex Court in *N.C.V Aishwarya’s case (supra)*, *Rajani Kishor’s case (supra)* and *Anindita Das’s case (supra)*, this Court deems it appropriate to allow the present petition, by issuing following directions:

- (i) Petition filed by respondent - husband under Section 13 of the Hindu Marriage Act, 1955, bearing No. DMC/287/2018, titled as “Angrej Singh vs. Surjit Kaur @ Jaspreet”, pending in the Court of District Judge, Ferozepur, is transferred to a Court of competent jurisdiction within Sessions Division Kapurthala.

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- (ii) Learned District Judge, Ferozepur, is directed to transfer complete record pertaining to the aforesaid case to learned District Judge, Kapurthala, by directing both the sides to appear before the Court of learned District Judge, Kapurthala, on a particular date to be fixed by him, for further proceedings.
- (iii) On receipt of record of the case, learned District Judge, Kapurthala, will either keep the said case in his own Court or to assign the same to a Court having competent jurisdiction within Sessions Division Kapurthala, to try the same.
- (iv) The concerned Court at Kapurthala, shall diligently strive to amicably resolve the marital discord between the parties by referring the matter to the Mediation and Conciliation Centre.
- (v) After transfer at Kapurthala, the concerned Court will accommodate the parties to the *lis* with at least one date in a calendar month.

10. In order to ensure appearance of the parties before learned District Judge, Kapurthala, as per the direction of learned District Judge, Ferozepur, it is also directed that a copy of this order be sent to the respondent through registered post, besides sending copies of this order to learned District Judges concerned, through email as well.

Petitioner through her counsel, is also directed to ensure her appearance accordingly.

Petition stands **disposed of** in above terms.

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

(SANJAY VASHISTH)
JUDGE

04.12.2023
Dharamvir

Whether speaking/reasoned: Yes
Whether Reportable: No