

TA-1430-2023

- 1 -

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

121

TA-1430-2023

Decided on : 03.11.2023

Rikki Sharma

. . . Petitioner(s)

Versus

Puneet Madan

. . . Respondent(s)

**CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH**

PRESENT: Mr. Shakti Mehta, Advocate  
for the petitioner(s).

\*\*\*\*

**SANJAY VASHISTH, J. (Oral)**

1. Present transfer application has been filed by the petitioner – wife, under Section 24 of CPC, for seeking transfer of the petition bearing No.HMA/630/2023 (CNR No.HRKR010068952023), filed by the respondent - husband under Section 13(1)(ia)(ib) of the Hindu Marriage Act, 1955 (for brevity, ‘HMA’), titled as “Puneet Madan v. Rikki Sharma” pending in the Court of Additional Principal Judge, Family Court, Karnal to any court of competent jurisdiction at Panchkula.

2. The present transfer petition has been filed, *inter alia*, on the following grounds:-

- i) That it is the second marriage of both the parties. First marriage of the petitioner was solemnized with one Amit Sharma, and out of their wedlock, one son namely, ‘Swastik Sharma’ was born. However, earlier husband of the petitioner died in a road accident on 07.04.2019.

Whereas, respondent was earlier married with one Sonika, and out of the said wedlock, one daughter namely, ‘Vasvi’ was born. But due to some temperamental issues, said marriage was dissolved by way of a mutual decree of divorce. As per the

TA-1430-2023

- 2 -

settlement, the girl child namely 'Vasvi' at present, is residing with the respondent.

- ii) That the marriage between the petitioner-wife and respondent-husband was solemnized on 07.08.2021 at Karnal, according to the Sikh rites and ceremonies. There is no child out of this wedlock.
- iii) That the petitioner is a housewife and is not earning anything, while the respondent-husband is running business/factory and whole sale work, and filing the Income Tax Returns of about Rs.6.00 lakhs to Rs.7.00 lakhs. Besides, he is also having movable/immovable properties at his native place.
- iv) That already one litigation instituted by the petitioner-wife, under Section 125 Cr.P.C. for grant of maintenance, against the respondent-husband and others is pending at Courts in Panchkula.
- v) That traveling from Karnal to Panchkula is a distance of around 120 kms (one side), which takes around 3-4 hours, thus, causing extreme hardships to the petitioner-wife as well as the minor child.
- vii) That the petitioner-wife is financially dependent on her widow mother and lacks convenient transportation options, thus, is compelled to rely on public transit, resulting in significant hardships.
- vii) That petitioner-wife is also having apprehension of life threat from the respondent-husband.

3. I have heard learned Counsel for the petitioner.

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.”*

4. Further, Hon’ble the Apex Court in **Rajani Kishor Pradeshi vs 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 ordinarily be allowed, taking into consideration their convenience and the Courts should desist from putting female litigants under undue hardships.*”

5. However, to avoid any misuse of the lenient view by the female litigants, Hon’ble the Apex Court in **Anindita Das vs. 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*

TA-1430-2023

- 4 -

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

6. 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;
- (h) Accessibility of the location from where the wife resides to the court where the case is pending;
- (i) 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.

7. This court is of the opinion that, for the purpose of deciding the transfer petition, it is not necessary to issue notice to the respondent-husband. Otherwise, both the parties would be burdened with litigation costs and transportation expenses, which shall be taxing for both the sides.

8. 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 subject to the following conditions:

- (i) The petition filed by respondent - husband under Section 13(1)(ia)(ib) of Hindu Marriage Act, 1955, bearing No. HMA/630/2023 titled as "Puneet Madan v. Rikki Sharma", pending in the Court of Addl. Principal Judge, Family Court, Karnal is transferred to a Court of competent jurisdiction at Panchkula.
- (ii) The Ld. District Judge, Karnal is directed to transfer complete record pertaining to the aforesaid case to District Judge, Panchkula, by directing both the sides to appear before the Court of Ld. District Judge, Panchkula, on a particular date for further proceedings.
- (iii) The District Judge, Panchkula will assign the said petition to the Court of competent jurisdiction.

9. The concerned Court at Panchkula shall diligently strive to amicably resolve the marital discord between the parties by referring the matter to the Mediation and Conciliation Centre.

10. The Court, where the matter is to be assigned after transfer will accommodate the parties to the *lis* with at least, one day in a calendar month.

11. However, liberty is granted to the respondent-husband to revive the petition, if so advised, to contest the same, provided that:

- (I) If the petitioner-wife has concealed any material fact or aspect while filing the current transfer application, with a purpose to mislead the Court for seeking transfer of the case.

**OR**

- (ii) If the respondent husband is suffering from any substantial physical or mental disability or ailment.

**OR**

- (iii) The respondent will clear all arrears of maintenance amount, if any, in terms of a petition filed by the

TA-1430-2023

- 6 -

petitioner either under Section 125 Cr.P.C. or Section 12 of the Domestic Violence Act or Section 24 of the Hindu Marriage Act, or under any other law.

**AND**

- (iv) The respondent will file an affidavit giving undertaking to pay Rs.1,000/- per day, to the petitioner for attending the Court proceedings at Karnal, on each and every date of hearing.

**AND**

- (v) The respondent will bring a demand draft of Rs.25,000/- towards the litigation expenses of the petitioner to pursue the case at Karnal in case the respondent opts to contest this petition.

12. As already noticed above, since the petition is being disposed of without issuing notice to the respondent, accordingly, in these peculiar circumstances, in order to ensure appearance of the parties before the District Judge, Panchkula, as per the direction of District Judge, Karnal; it is also directed that a copy of this order be sent to the respondent through registered post, besides sending a copy of this order to the District Judges concerned through email. Petitioner through her counsel, present in the Court, is also directed to ensure her appearance accordingly.

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

**(SANJAY VASHISTH)  
JUDGE**

**November 03, 2023**

*J.Ram*

*Whether speaking/reasoned: Yes/No*  
*Whether Reportable: Yes/No*