

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****TA No.1060/2019 (O&M)**
Date of decision: 20.04.2023**Neha****.....Petitioner.****Vs.****Ashwani Singla****.....Respondents****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Ms.Neeru Bansal, Advocate for the petitioner.
Mr. Akashdeep Singh, Advocate for the respondent.

Nidhi Gupta, J.

1. Petitioner-estranged wife by way of present Transfer Application filed under Sections 23 and 24 CPC seeks transfer of case bearing No. HMA/462/2019 filed under Section 13 of the Hindu Marriage Act,1955 (hereinafter referred to as 'the Act') for dissolution of marriage and custody of minor child, by the respondent-husband from the Court of Principal Judge, Family Court, Kaithal to a Court of competent jurisdiction at Hisar.

2. As per averments made in the petition, marriage between the parties was solemnized on 6.7.2012 at Kaithal and one male child was born out of their wedlock on 14.11.2014. Respondent filed aforesaid petition u/s 13 of the Act at Kaithal on 23.9.2019 in which the petitioner has been summoned.

3. It is stated by the learned counsel for the petitioner that (i) petitioner is a victim of domestic violence; (ii) she is presently residing with

her minor son at Ghaziabad while her parental home is at Hisar; (iii) she has no source of income; and (iv) Kaithal is at a distance of about 209 kilometers from her place of residence and she will have to travel said distance along with the minor child.

4. In response, it is submitted by the Id. Counsel for the respondent that the averments made in the petition are false. Petitioner had earlier registered FIR No. 42 dated 4.9.2017 u/s 323,406,498-A IPC in Women PS, Hisar against the respondent and his family members and upon trial the respondent was acquitted by the Id. JMIC, Hisar vide judgment dated 22.3.2021; and at present no other case is pending at Hisar. It is further submitted that the respondent has been regularly paying Rs.27,000/- per month as maintenance to the petitioner, and has paid more than Rs.20 lacs as maintenance till date.

5. No other argument has been raised.

6. Heard Id. Counsel for the parties.

7. This Court is well aware of the preponderance of law in such-like cases as the present one. However, in the present case, by her own showing and as borne out from her address as given by the petitioner herself in the present Memo of Parties, admittedly, the petitioner is residing in Ghaziabad, alongwith the minor child. Admittedly too, the petition for custody of minor child, filed by the respondent-husband u/s 12 and 25 of the Guardian & Wards Act, is also pending before the Principal Judge, Family Court, Ghaziabad itself as, minor child is residing in Ghaziabad. In these circumstances, it is not clear as to why the petitioner is seeking transfer of the S. 13 of Hindu Marriage Act petition to Hisar.

8. Admittedly too, distance between Ghaziabad/ place of residence of petitioner and Kaithal, where the S. 13 petition is pending is about 209 kms one way; whereas distance between Ghaziabad to Hisar (where the petitioner is seeking transfer), is more than 230 kms one way. Thus, it would be understandable if the petitioner had sought transfer of the S. 13 of the Act petition to Ghaziabad where she is residing, however, prayer in instant application is for transfer to Hisar.

9. Accordingly, in view of the facts and circumstances as noticed above, I find no ground is made out to transfer case bearing No. HMA/462/2019 from the Court of Principal Judge, Family Court, Kaithal to a Court of competent jurisdiction at Hisar.

10. Dismissed.

(Nidhi Gupta)
Judge

20.04.2023
Joshi

Whether speaking/reasoned	Yes
Whether reportable	Yes/No