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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-1312-2020 (O&M)
Date of decision: 16.04.2024

Meenu Devgan

... Petitioner

Vs.

Arnav Devgan and another

... Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Prarthana Duggal, Advocate and
Mr. Namit Khurana, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

1. The present petition has been filed under Section 407 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') read with Section 482 Cr.P.C. seeking transfer of petition under Section 125 Cr.P.C. bearing case No.MNT/330/2019 dated 27.08.2019 filed by the respondents from the Court of learned Principal District Judge (Family Court), Gurugram to the competent Court of jurisdiction at Yamuna Nagar.
2. Learned counsel for the petitioner, *inter alia*, contends that the petitioner has no source of income and is living in Yamuna Nagar and Criminal Revision No.76 of 2018 filed by the petitioner is pending at

Yamuna Nagar. An FIR No.158 dated 04.03.2015 under Sections 498-A, 406, 506 of IPC was got registered at Police Station City Yamuna Nagar by the petitioner, in which the accused were acquitted by the learned trial Court. Thereafter, the petitioner filed a complaint bearing No.81 of 2016 under Sections 499 & 500 of IPC against her husband, which is pending before learned Judicial Magistrate 1st Class, Yamuna Nagar. It is further contended that the distance between Gurugram and Yamuna Nagar is 240 kms and as such, it is very difficult for her to pursue the petition under Section 125 Cr.P.C. at the District Court, Gurugram.

5. Further, learned counsel for the petitioner relies upon the judgments rendered by the Hon'ble Supreme Court in *Sumita Singh Vs. Kumar Sanjay and another, AIR 2002 SC 396* and *Rajani Kishor Pardeshi Vs. Kishor Babulal Pardeshi, (2005) 12 SCC 237* to contend that while deciding the transfer applications, more weightage and consideration should be given to the convenience of the female litigants and transfer of legal proceedings from one Court to another Court should ordinarily be allowed in order to avoid undue hardship to the female litigants.

6. As per office report, the respondents have been duly served through their grandfather. However, there is no representation on their behalf. As such, this Court is left with no other option but to decide the present petition on its merits.

7. Heard.

8. A two Judge Bench of the Hon'ble Supreme Court dealt with power of the Court to transfer proceedings under Sections 24 and 25 of the Civil Procedure Code in ***Kulwinder Kaur @ Kulwinder Gurcharan Singh Vs. Kandi Friends Education Trust, AIR 2008 SC 1333***, wherein it was held that the power to make such transfers is discretionary in nature and hence, it would be unwise to attempt to shackle it with a blanket formula uniformly applicable to all situations. However, it cannot be denied that the power must be used with abundance of care and caution. Further a three Judge Bench of the Hon'ble Supreme Court in ***Gana Saraswathi Vs. H. Raghu Prasad, (2000) 10 SCC 277*** had observed that in the interest of justice, the doctrine of forum non-conveniens can also be extended to matrimonial proceedings. It was stated that Courts usually allow transfer petitions in such cases to ensure that the wife does not suffer on account of not being able to participate in the proceedings.

9. A two Judge Bench of the Hon'ble Supreme Court in ***N.C.V. Aishwarya Vs. A.S. Saravana Karthik Sha, 2022 SCC OnLine SC 1199*** 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 socio-economic 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.”

10. In the present case, the petitioner is residing at Yamuna Nagar and distance between Gurugram and Yamuna Nagar is 240 kms and therefore, it would cause immense hardship to the petitioner, much less, she will have to bear the transportation expenses to attend the Court proceedings on each and every date.

11. In view of the law settled by the Hon'ble Supreme Court in **Sumita Singh's** case (supra), **Rajani Kishor Pardeshi's** case (supra) and **N.C.V. Aishwarya's** case (supra), present petition is allowed. Resultantly, petition under Section 125 Cr.P.C. bearing case No.MNT/330/2019 dated 27.08.2019 filed by the respondents is ordered to be transferred from the Court of learned Principal District Judge (Family Court), Gurugram to the jurisdiction of District and Sessions Judge, Yamuna Nagar. The District Judge, Gurugram is directed to transfer the record pertaining to the aforesaid

case to the District Judge, Yamuna Nagar, who will assign the said petition to the competent Court of jurisdiction. The parties are directed to appear before the learned trial Court within a period of 30 days from today.

16.04.2024
vishnu

[HARPREET SINGH BRAR]
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No