



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

101

TA-50-2023 (O&M)
Date of decision: 09.05.2024

Rinki

...Petitioner

Versus

Sarvesh

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present: Mr. Kinshu Mittal, Advocate for the petitioner.

Mr. Vaibhav Bhargav, Advocate for the respondent.

VIKAS SURI, J.

1. Prayer in this application under Section 24 of the Code of Civil Procedure, 1908, filed by petitioner-wife is for transfer of the petition under Section 13(1) of the Hindu Marriage Act, 1955 (for short 'the Act'), filed by respondent-husband, registered as HMA/1276/2021, pending in the Court of learned Principal Judge, Family Court, Karnal to a Court of competent jurisdiction at Ganaur, District Sonapat.

2. Learned counsel for the petitioner submits:-

- i) That the parties were married on 16.02.2017 according to Sikh rites and ceremonies and no issue has been born from the said wedlock.
- ii) That the petitioner-wife was turned out of the matrimonial home on 27.02.2019 and since then, she is living separately with her parents.



- iii) That the petitioner has no independent source of income and is dependent upon her parents, who are of old age and need constant attention. Moreover her mother cannot walk on account of defect in the right leg and her father is also incapacitated from walking after having met with an accident.
- iv) That the distance between Karnal and Sonapat is about 110 kilometers on one side and it is very difficult for her to attend the proceedings alone.
- v) That the place of residence of petitioner i.e. Village Shamashpur Gamba, District Sonapat and the area around is not safe for a single lady to travel alone. In winter seasons, the sun sets earlier and there is no public transport available during evening hours.

3. Upon notice, the respondent entered appearance through counsel, however, no reply has been filed on his behalf. Today, at the hearing, learned counsel for the respondent submits that he does not have any further instructions from the respondent.

4. Heard learned counsel for the parties and perused the material available on record.

5. Besides the facts noticed hereinabove, the legal position in such like cases as the present one, is well established. In this regard, reference to judgment of the Hon'ble Supreme Court rendered in *N.C.V. Aishwarya v. A.S. Saravana Karthik Sha*, AIR 2022 SC 4318, would be apposite, wherein 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 reliance can be placed upon the judgments in ***Sumita Singh vs Kumar Sanjay***, AIR 2002 SC 396 and ***Rajani Kishor Pardeshi vs 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. In the light of the conspectus of the law laid down by the



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Apex Court, 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;
- (c) Custody of children;
- (d) Educational needs of the children, if any;
- (e) Physical well-being of the parties concerned;
- (f) Pending litigation(s) between the parties including criminal cases, if any;
- (g) Accessibility from the location where the wife resides to the Court where the case is pending;
- (h) Availability of convenient commuting options and its periodicity.

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

8. Thus, applying the principles of law laid down by the Apex Court in *N.C.V Aishwarya's case (supra)*, *Sumita Singh's case (supra)* and *Rajani Kishor's case (supra)*, this Court deems it appropriate to allow the present petition, by issuing the following directions:-

- (i) Petition under Section 13(1) of the Act, filed by the respondent-husband, registered as HMA/1276/2021, pending in the Court of learned Principal Judge, Family Court, Karnal, is transferred to a Court of competent jurisdiction at Ganaur, District Sonapat.
- (ii) The learned District Judge, Karnal, is directed to

transfer complete record pertaining to the aforesaid case to learned District Judge, Sonapat.

- (iii) The parties through their counsel are directed to appear before the learned District Judge, Sonapat, on **03.07.2024.**
- (iv) The learned District Judge, Sonapat, will assign the said petition to the Court of competent jurisdiction.
- (v) The concerned Court at Ganaur, shall diligently strive to amicably resolve the marital discord between the parties by referring the matter to the Mediation and Conciliation Centre.

9. The present petition is disposed of accordingly. Pending applications, if any, also stand disposed of.

10. Copy of this order be sent to both the learned District Judges concerned, for information and necessary compliance.

May 09, 2024
sumit.k

(VIKAS SURI)
JUDGE

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