



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.109

TA-98-2024

Date of Decision: 17.09.2024

MANGJEET RANI ALIAS REENA

....Applicant

Versus

ANMOL SINGH

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Mr. S.K. Bawa, Advocate
for the applicant.

ARCHANA PURI, J. (Oral)

Mr. P.K.S. Phoolka, Advocate, has made appearance on behalf of the respondent and filed Power of Attorney, which is taken on record.

Reply has not been filed, but however, the counsel for the respondent, as per the instructions, submits that, he does not intend to file reply to the application, though, he contests the transfer application.

Learned counsel for the parties heard.

The applicant-wife has filed the present application for seeking transfer of the petition under Section 13 of the Hindu Marriage Act i.e. HMA/507/2023, titled '*Anmol Singh Vs. Mangjeet Rani @ Reena*', filed by the respondent-husband, pending in Family Court Faridkot and she seeks transfer of the same to the Court of competent jurisdiction at Jalandhar or Family Court (Camp Court) Phillaur.

It is submitted by the counsel for the applicant that on account of the matrimonial discord, the parties are residing separate.

The daughter born from the wedlock of the parties to the lis on 21.08.2021,



is in the care and custody of the applicant. The applicant is not having any source of earning and she is dependent upon her parental family. Even otherwise, the applicant has filed the petition under Section 125 Cr.P.C., which is pending in Family Court (Camp Court) Phillaur. In the given circumstances, it is submitted that it is difficult for the applicant to defend the divorce petition from a distance of about 140 kilometres, from the place of her residence. As such, the counsel makes a prayer for transfer of the case, either to Phillaur or Jalandhar.

However, the counsel for the respondent, though has not filed the reply to the said application, but he submits that there is good connectivity between Phillaur and Faridkot and therefore, no such inconvenience is to be caused to the applicant to defend the divorce petition. Otherwise also, he submits that the respondent has concealed the source of her earning, as she indulges in giving private tuitions.

In view of the submissions made aforesaid, beneficial reference is made to ***N.C.V. Aishwarya vs. A.S.Saravana Karthik Sha, 2022 INSC 1310***, wherein, the Hon'ble Supreme Court made observations, with regard to the various conditions, ought to be taken into consideration, while dealing with the transfer of the legal proceedings, which are reproduced, as herein given:-

“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.”

Also, reference is made to ***Sumita Singh vs. Kumar Sanjay and another, 2001(10) SCC 41***, and ***Rajani Kishor Pardeshi vs. Kishor Babular Pardeshi, 2005(12) SCC 237***, wherein, it has been observed that convenience of the wife is to be preferred and looked into.

It is well settled that while considering the transfer of the matrimonial dispute/case, the Court is to consider the family condition of the wife, custody of the children, economic condition of the wife, her physical health and the extent of her earning capacity, as well as earning capacity of the husband and most important, convenience of the wife, more particularly, considering the distance between the two places, where the litigation is already pending and is proposed to be now transferred and also about the connectivity of the place from her place of residence and bearing of the litigation charges and travelling expenses.

Adverting to the case in hand, it is evident that the female child born from the wedlock of the parties to the lis, is in the care and custody of the applicant. Even, the distance between Phillaur and Faridkot is about 140 Kilometres. Moreover, the petition under Section 125 Cr.P.C., filed by the applicant, is also pending in the Courts at Phillaur. Even though, it is submitted by the counsel for the respondent that the applicant is indulging in giving private tuitions, but no material, to so substantiate this plea, as such, has been brought on record. In fact, it is a vague assertion.



Considering the aforesaid circumstances, the application is hereby accepted and the petition under Section 13 of the Hindu Marriage Act i.e. HMA/507/2023, titled ‘Anmol Singh Vs. Mangjeet Rani @ Reena’, filed by the respondent-husband, stands transferred from Family Court Faridkot, to Family Court (Camp Court) Phillaur, District Jalandhar. The requisite record of the aforesaid case be sent by Family Court Faridkot, to District and Sessions Judge, Jalandhar.

Learned District and Sessions Judge, Jalandhar, shall assign the said petition to Family Court (Camp Court) Phillaur. Even, the parties are directed to appear before Family Court (Camp Court) Phillaur, within a period of one month from today onwards.

17.09.2024
Himanshu

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No