

2024:PHHC:091219



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

TA-142-2024(O&M)
Date of Decision: July 18, 2024

Rajni Devi

...Applicant

Versus

Rahul

...Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Nishant Sindhu, Advocate
for the applicant.

None for the respondent.

ARCHANA PURI, J.

The applicant-wife has filed the present application for seeking transfer of the petition under Section 9 of the Hindu Marriage Act, filed at the instance of respondent-husband, pending in the Family Court, Sri Muktsar Sahib, to the Court of competent jurisdiction at Faridkot.

In pursuance of the notice issued by the Court, despite service, respondent did not make appearance to contest the transfer application.

Learned counsel for the applicant heard.

At the very outset, it is submitted that by learned counsel for the applicant that marriage between the parties to the lis, was solemnized on 23.10.2020 and a daughter was born from the wedlock of the parties, who is



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about 2 years old now and she is in the custody of the applicant-wife. Further, it is submitted that the applicant is residing at Faridkot, which is at a distance of about 50 kms. from Sri Muktsar Sahib. Considering the child to be 2 years old, it is difficult for her to defend the litigation, thrust upon her, at the behest of respondent-husband at Sri Muktsar Sahib.

Learned counsel also submits that petition under Section 125 Cr.P.C., was also filed, at the instance of the applicant-wife, which is also pending at the Courts at Faridkot. In fact, it is submitted that applicant-wife is working as domestic help, to maintain herself and her daughter. As such, a prayer was made for allowing the transfer application.

In view of the submissions aforesaid, at the very outset, 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.

Considering the submissions made by learned counsel for the applicant and the various circumstances, as spelt out from the application, the transfer application, as such, is hereby accepted and petition bearing No.HMA-290-2023, titled as ‘Rahul vs. Rajni Devi’, filed under Section 9 of the Hindu Marriage Act, stands transferred from the Family Court, Sri Muktsar Sahib to the Court of competent jurisdiction at Faridkot. The requisite record of the aforesaid divorce petition shall be transferred by the



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Family Court, Sri Muktsar Sahib to District and Sessions Judge, Faridkot.

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

July 18, 2024
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No