



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.102

TA-200-2024

Date of Decision: 30.08.2024

REKHA ALIAS REKHA RANI

....Applicant

Versus

VIKAS GARG

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Mr. Rohit Choudhary, Advocate
for the applicant.

Mr. Vikas Garg, Advocate
for the respondent.

ARCHANA PURI, J. (Oral)

The applicant-wife has filed the present application for seeking transfer of the petition under Section 9 of the Hindu Marriage Act i.e. DMC/345/2023, titled '*Vikas Garg Vs. Rekha Rani*', filed at the instance of respondent-husband, pending in Family Court Rajpura, District Patiala, to Family Court (Camp Court) Safidon, District Jind.

In pursuance of the notice issued, respondent has made appearance and filed reply.

Learned counsel for the parties heard.

At the very outset, the counsel for the applicant has submitted that the marriage between the parties to the lis, is the second marriage of both the applicant, as well as the respondent. The applicant has one son from her previous marriage, who is in the custody of her earlier in-laws. The respondent has one daughter, who is 6 years old and she is in his custody, at present. However, due to matrimonial discord, the parties to the



lis are residing separate. Also, it is submitted that an FIR bearing No.228 dated 06.12.2023, under Sections 323, 34, 406, 498-A and 506 IPC, was got lodged at the instance of the applicant, at Women Police Station, trial qua which is going on in the Court of Judicial Magistrate, Jind. Besides the same, another petition under Section 125 Cr.P.C. has also been filed by the applicant, which is also pending in the Courts at Safidon. The distance between Safidon and Rajpura is about 150 kilometres. The applicant is not having any source of earning. In the given circumstances, it is submitted that it is difficult for the applicant to defend the petition under Section 9 of the Hindu Marriage Act, from a distance of about 150 kilometres, from the place of her residence. As such, a prayer has been made for acceptance of the application.

On the other hand, the counsel for the respondent has submitted that it was on account of interference, at the instance of the mother of the applicant, that the parties are residing separate. Otherwise also, false allegations have been levelled against the applicant in the application. As such, a prayer is made for dismissal of the application.

In view of the submissions 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, keeping in view the distance between Safidon to Rajpura to be about 150 kilometres and also considering the fact of the applicant not having any source of earning, there would be inconvenience on the part of the applicant to defend the petition under Section 9 of the Hindu Marriage Act, from such a distance.



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Considering the same, the present application is hereby accepted and the petition under Section 9 of the Hindu Marriage Act i.e. DMC/345/2023, titled '*Vikas Garg Vs. Rekha Rani*', filed at the instance of respondent-husband, stands transferred from Family Court Rajpura, District Patiala, to Family Court (Camp Court) Safidon, District Jind. The requisite record of the aforesaid case be sent by Family Court Rajpura, District Patiala, to the District and Sessions Judge, Jind.

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

30.08.2024
Himanshu

(ARCHANA PURI)
JUDGE

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