



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.221

TA-247-2024

Date of Decision: 14.08.2024

SEEMA RANI

....Applicant

Versus

KULDEEP SINGH

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Mr. Ashok Kumar Sama, Advocate
for the applicant.

Mr. Navinder Jig Singh Dandiwal, Advocate
for the respondent.

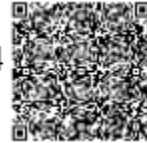
ARCHANA PURI, J. (Oral)

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/61/2024, titled '*Kuldeep Singh Vs. Seema Rani*', filed at the instance of respondent-husband, pending in the Family Court Moga, to the Court of competent jurisdiction at Guru Har Sahai, District Ferozepur.

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

Learned counsel for the parties heard.

At the very outset, it is submitted by learned counsel for the applicant that no child was born from the wedlock of the parties to the lis. However, due to matrimonial discord, the applicant has filed the petition under Section 125 Cr.P.C., as well as petition under Sections 17, 18, 19, 20 and 22 of the Protection of Women from Domestic Violence Act and the same are pending in the Courts at Guru Har Sahai, District Ferozepur. In

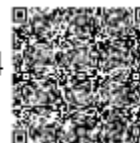


these circumstances, it is submitted that it is difficult for the applicant to defend the divorce petition, at a distance of 90 kilometres, from the place of her residence. As such, a prayer has been made for transfer of the case, pending at Family Court Moga, to the Court of competent jurisdiction at Guru Har Sahai, District Ferozepur.

On the other hand, learned counsel for the respondent, while making reference to the reply, filed by way of affidavit of the respondent, submits that there was concealment of major operations undergone by the applicant, at the time of matrimonial alliance. Also, it is submitted that the respondent is a working person and looking after his aged parents as well. In the given circumstances, it is submitted that it is difficult for him also, to attend the Court proceedings, if the case is transferred.

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.

Now, adverting to the case in hand, it is pertinent to mention that the applicant is residing at Guru Har Sahai, District Ferozepur and the divorce petition has been filed at the instance of the respondent at Moga. Also, the applicant has already filed petition under Section 125 Cr.P.C., as well as the petition under the Protection of Women from Domestic Violence Act, which are pending in the Courts at Guru Har Sahai, District Ferozepur. Even, the applicant is a housewife and having no source of earning.

In view of the aforesaid fact situation and also considering the distance of about 90 kilometres, where the divorce petition has been filed,



the present application is hereby accepted and the petition under Section 13 of the Hindu Marriage Act i.e. HMA/61/2024, titled '*Kuldeep Singh Vs. Seema Rani*', filed at the instance of respondent-husband, stands transferred from the Family Court Moga, to Family Court (Camp Court) Guru Har Sahai, District Ferozepur. The requisite record of the aforesaid case be sent by the Family Court Moga, to District and Sessions Judge, Ferozepur.

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

14.08.2024
Himanshu

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No