

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

105

CRM-M-11904-2024(O&M)

Date of order: 06.03.2024

Kajal

.....Petitioner(s)

Vs.

Abhishek Raj Soni

.....Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Rajiv Joshi, Advocate
for the petitioner.

Nidhi Gupta, J.

Prayer in the present petition under Section 407 Cr.P.C. is for transfer of petition under Section 125 Cr.P.C. titled as “Kajal Vs. Abhishek Raj Soni” bearing No.MNT125/71/2023 (instituted on 22.02.2023) (Annexure P1) pending before the Court of learned Family Court, Gurugram to a Court of competent jurisdiction at Gurdaspur.

2. Learned counsel for the petitioner-wife inter alia submits that the petitioner was married to the respondent on 11.03.2021. No child was born out of their wedlock. It is submitted that the petitioner was thrown out of the matrimonial home by the respondent, and she is now staying in Gurdaspur at her parental home. Accordingly, petition bearing No.MNT125/71/2023 be transferred from the Court of learned Family Court, Gurugram to a Court of competent jurisdiction at Gurdaspur. Learned counsel relies upon judgment of a Co-ordinate Bench of this Court in “Simarjit Kaur Vs. Sukhjeet Singh Pamma” Law Finder Doc ID # 267819.

3. No other argument is made on behalf of the petitioner.
4. I have heard learned counsel for the petitioner and perused the case file in detail.
5. Perusal of record of the case shows that petition under Section 125 Cr.P.C. (Annexure P1), the transfer of which is being sought from Gurugram to Gurdaspur, was filed by the petitioner herself on 22.02.2023. On a direct Court query as to whether the petitioner is working, learned counsel for the petitioner submits that the petitioner was earlier working in Air India, however, she was compelled to leave the job by the respondent. Learned counsel for the petitioner candidly admits that the respondent is working in Gurugram. It has further been admitted that the petitioner has filed FIR No.42 dated 23.05.2023 under Sections 406 (added later on), 498-A, 506 read with Section 323 IPC in Gurugram.
6. Therefore, facts are that the Marriage between the parties was solemnized in Gurugram. Proceedings in aforesaid FIR registered by the petitioner are also pending in Gurugram. Present petition under section 125 CRPC was also filed by the petitioner at Gurugram. Petitioner is currently not working and has no additional responsibilities of a child. Whereas, admittedly, the respondent is employed at Gurugram, and it will cause him inconvenience to take leave to travel to Gurdaspur to attend to the proceedings.
7. As such, no compelling circumstances have been made out that merit transfer of the petition under Section 125 Cr.P.C. (Annexure P1) filed by the petitioner from Gurugram to Gurdaspur.

8. Further, petitioner can derive no help from the relied upon judgment in the case of **Simarjit Kaur** (supra), as the facts and circumstances of the said case are entirely different from the facts of the present case; inasmuch as in the said case, the petitioner/wife therein had a minor daughter to look after whereas that is not so in the present case.

9. There is no disputing the fact that the preponderance of law in such-like transfer matters is in favour of the wife, wherein it has been held that the convenience of the wife has to be the primary consideration. However, it is not the case that transfer is always allowed in favour of the wife. The Hon'ble Supreme Court, as well as this Court have refused relief to the wife in much less strenuous circumstances. Reliance in this regard is being placed upon judgment of the Hon'ble Supreme Court in **Anindita Das v. Srijit Das , (SC) : Law Finder Doc Id # 191193** and **Anupam Ghosh and another v Faiz Mohammed and others, Law Finder Doc Id # 2032739** and judgments of this Court in **Nisha @ Manisha v Amarveer Yadav, Law Finder Doc ID # 1691438** (TA No.299/2019 decided on 15.1.2020); and **Rinky Rani v Daljit Kumar, Law Finder Doc Id # 1975389** holding that leniency shown to ladies in such transfer matters is often misused and that Courts should not be swayed by emotions merely because applicant is a wife. Ld. counsel for the petitioner is unable to dispute that it is not binding upon this Court to transfer each and every matrimonial dispute as per convenience of the wife.

10. In view of the above, I find no ground is made out to transfer petition under Section 125 Cr.P.C. titled as "Kajal Vs. Abhishek Raj Soni" bearing No.MNT125/71/2023 (instituted on 22.02.2023) (Annexure

P1) pending before the Court of learned Family Court, Gurugram to a Court of competent jurisdiction at Gurdaspur. Present petition accordingly stands **dismissed.**

11. Pending application(s) if any also stand(s) disposed of.

06.03.2024		(Nidhi Gupta)
Sunena		Judge
Whether speaking/reasoned	Yes/No	
Whether reportable	Yes/No	