



230 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-15812-2022 (O&M)
Date of decision: 08.08.2024

SAPNA DEVI

...PETITIONER

V/S

STATE OF PUNJAB AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Parveen Chauhan, Advocate for
Mr. Suresh Kumar Arya, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG Punjab.

HARPREET SINGH BRAR J. (ORAL)

1. Instant petition has been filed under Section 407 Cr.P.C. read with Section 482 Cr.P.C. praying for transfer of the trial case CHI/32/2022 dated 04.03.2022, '*State of Punjab vs Ramesh Lal and others*' in case FIR No.10, dated 10.01.2021, under Sections 323/498-A/342/506/34 IPC registered at Police Station Sultanpur Lodhi, District Kapurthala, from District Court Kapurthala to any competent court of jurisdiction at District Pathankot.

2. It has been contended by learned counsel for the petitioner that petitioner is complainant in the complaint(supra) and is living with her parents after having been deserted by her husband. He further submits that rest of the three cases between the parties are already pending adjudication before the Courts at Pathankot. He has further submitted that petitioner has no source of income and one side distance between Kapurthala and Pathankot is 150 kms and hence, petitioner is facing hardships in going to Kapurthala to attend the Court proceedings.



3. Further, learned counsel for the petitioner relies upon the judgments rendered by the Hon'ble Supreme Court in ***Sumita Singh Vs. Kumar Sanjay and another***, AIR 2002 SC 396 and ***Rajani Kishor Pardeshi Vs. Kishor Babulal Pardeshi***, (2005) 12 SCC 237 to contend that while deciding the transfer applications, more weightage and consideration should be given to the convenience of the female litigants and transfer of legal proceedings from one Court to another Court should ordinarily be allowed in order to avoid undue hardship to the female litigants.

4. Heard.

5. On 19.04.2022, following order was passed by a Co-ordinate Bench of this Court:

“Instant petition has been filed under Section 407 Cr.P.C. read with Section 482 Cr.P.C. praying for transfer of the trial case CHI/32/2022 dated 04.03.2022, 'State of Punjab vs Ramesh Lal and others' in case FIR No.10, dated 10.01.2021, under Sections 323/498-A/342/506/34 IPC registered at Police Station Sultanpur Lodhi, District Kapurthala, from District Court Kapurthala to any competent court of jurisdiction at District Pathankot.

It has been contended that petitioner is the complainant and is living with her parents after having been deserted by her husband. He further submits that rest of the three cases inter se the parties are already pending adjudication before the Courts at Pathankot. He has further submitted that petitioner has no source of income and one side distance between Kapurthala and Pathankot is 150 kms and hence, petitioner is facing hardships in going to Kapurthala to attend the Court proceedings.

Notice of motion for 17.05.2022.”

6. A two Judge Bench of the Hon'ble Supreme Court dealt with power of the Court to transfer proceedings under Sections 24 and 25 of the Civil Procedure Code in ***Kulwinder Kaur @ Kulwinder Gurcharan Singh Vs. Kandi Friends Education Trust***, AIR 2008 SC 1333, wherein it was held that



the power to make such transfers is discretionary in nature and hence, it would be unwise to attempt to shackle it with a blanket formula uniformly applicable to all situations. However, it cannot be denied that the power must be used with abundance of care and caution. Further a three Judge Bench of the Hon'ble Supreme Court in ***Gana Saraswathi Vs. H. Raghu Prasad, (2000) 10 SCC 277*** had observed that in the interest of justice, the doctrine of forum nonconveniens can also be extended to matrimonial proceedings. It was stated that Courts usually allow transfer petitions in such cases to ensure that the wife does not suffer on account of not being able to participate in the proceedings.

7. A two Judge Bench of the Hon'ble Supreme Court in ***N.C.V. Aishwarya Vs. A.S. Saravana Karthik Sha, 2022 SCC OnLine SC 1199*** has held as under:-

“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.”

8. Considering the facts and circumstances of the present case, it would be just and proper to apply the same principles to the instant case and duly consider the convenience of the female litigant.

9. In the present case, distance of Kapurthala and Pathankot is 150 kms approximately and therefore, it would cause immense hardship to the petitioner, much less, petitioner will have to bear the transportation expenses to attend the Court proceedings on each and every date.

10. In view of the law settled by the Hon’ble Supreme Court in *Sumita Singh’s* case (supra), *Rajani Kishor Pardeshi’s* case (supra) and *N.C.V. Aishwarya’s* case (supra), present petition is allowed. Resultantly, the trial in the case bearing No. CHI/32/2022 dated 04.03.2022, '*State of Punjab vs Ramesh Lal and others*' in case FIR No. 10, dated 10.01.2021, under Sections 323/498-A/342/506/34 IPC registered at Police Station Sultanpur Lodhi, District Kapurthala pending in the Court of Sub Divisional Judicial Magistrate, Sultanpur Lodhi, District Kapurthala is ordered to be transferred to the jurisdiction of District and Sessions Judge, Pathankot. The District Judge, Kapurthala is directed to transfer the record pertaining to the aforesaid case to the District Court, Pathankot, who will assign the said petition to the competent Court of jurisdiction at Pathankot. The parties are directed to appear before the learned trial Court within a period of two weeks from today.

August 08, 2024
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

(i)	Whether speaking/reasoned	Yes/No
(ii)	Whether reportable	Yes/No