

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

117

TA-390-2024 (O&M)
Date of Decision: 01.04.2024

Meena
...Petitioner

Versus

Parveen
...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present:- Mr. Monit Pal Singh, Advocate for
Mr. Abhimanyu Singh, Advocate, for the petitioner.

VIKAS SURI, J. (ORAL)

1. Prayer in this petition is for transfer of the petition filed by respondent-husband under Section 13 (1)(i-a) of the Hindu Marriage Act, 1955 (for short 'the Act'), bearing DMC No.101 of 2024, instituted on 06.02.2024 (CNR No.HRRH010009042024), titled as *Parveen vs. Meena*, pending before the Principal Judge, Family Court, Rohtak, to a Court of competent jurisdiction at Bhiwani.

2. Learned counsel for the petitioner submits:-
- i) That the parties were married on 21.04.2015 as per Hindu rites and ceremonies.
 - ii) That the parties cohabited as husband and wife and one male child, namely Bhavik, born out from the said wedlock.
 - iii) That petitioner-wife is residing at Bhiwani.
 - iv) That the distance between place of residence of the petitioner-wife i.e. Bhiwani and the place of proceedings under Section 13 (1) (i-a) of the Act, filed by the respondent-husband, pending

before the Principal Judge, Family Court, Rohtak, is about 55 kilometres on one side. The petitioner along with her minor son aged about five years is not in a position to travel alone.

- v) That the proceedings arising out of following petitions:-
- (a) Complaint under Sections 12 of the Protection of Women from Domestic Violence Act, 2005,
 - (b) FIR No.343 dated 05.12.2023, under Sections 323, 34, 406, 498-A and 506 IPC, at Police Station Industrial Area, District Bhiwani,
- filed/registered at the behest of petitioner-wife, are pending in at Bhiwani.
- vi) That the respondent-husband has also filed a petition under Section 9 of the Act, at District Court, Rohtak, which has been transferred to a Court of competent jurisdiction at Bhiwani vide order dated 12.09.2022 passed in TA-1072-2022.

3. It is *inter alia* on these grounds that petitioner prays for transfer of the case, as detailed in para 1 above.

4. Heard learned counsel for the petitioner.

5. Besides the facts as noticed hereinabove, the legal position in such like cases as the present one, is well established. In this regard, judgment of the Hon'ble Supreme Court rendered in ***N.C.V. Aishwarya vs. A.S. Saravana Karthik Sha, 2022 SCC Online SC 1199***, wherein the Hon'ble Supreme Court 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 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 socioeconomic 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.”

6. Further reliance can be placed upon the judgments in *Sumita Singh vs Kumar Sanjay*, AIR 2002 SC 396 and *Rajani Kishor Pardeshi vs. Kishor Babulal Pardeshi*, (2005) 12 SCC 237, wherein the Hon’ble Supreme Court has observed that “while deciding the transfer application, the Courts are required to give more weightage and consideration to the convenience of the female litigants and transfer of legal proceedings from one Court to another should ordinarily be allowed, taking into consideration their convenience and the Courts should desist from putting female litigants under undue hardships.”

7. Even this Court in number of cases has followed the aforesaid principle of law. Accordingly, it is well settled that while considering the transfer of a matrimonial dispute/case, at the instance of the wife, the Court is to consider the family condition of the wife, the custody of the minor child, economic condition of the wife, her physical health and earning capacity of the husband and most important the convenience of the wife i.e. she cannot travel alone without assistance of a male member of her family, connectivity of the place to and fro from her place of residence as well as bearing of the litigation charges and travelling expenses.

8. After going through the entire paper-book, considering the fact that issuance of notice to the respondent has the consequences of staying

further proceedings before the trial Court, otherwise the petitioner-wife will have to bear the litigation expenses and transportation expenses and in case, notice of motion is issued, even the respondent-husband has to bear the litigation expenses and in view of the judgments i.e. *Sumita Singh's case* (supra), *Rajani Kishor Pardeshi's case* (supra) and *N.C.V. Aishwarya's case* (supra) passed by the Hon'ble Supreme Court, this Court deems it appropriate to allow the present petition, subject to the following conditions:-

- a) The petition filed by respondent husband under Section 13 (1)(i-a) of Hindu Marriage Act, 1955, bearing DMC No.101 of 2024, instituted on 06.02.2024 (CNR No.HRRH010009042024), titled as *Parveen vs. Meena*, pending before the Principal Judge, Family Court, Rohtak, is transferred to a Court of competent jurisdiction at Bhiwani.
- b) The learned District Judge, Rohtak is directed to transfer complete record pertaining to the aforesaid case to District Judge, Bhiwani.
- c) The parties through their counsel are directed to appear before the District Judge, Bhiwani, on 30.04.2024.
- d) The District Judge, Bhiwani, will assign the said petition to the Court of competent jurisdiction.

9. The concerned Court at Bhiwani will make all endeavour to refer the case before the Mediation and Conciliation Centre for exploring the possibility of some amicable settlement between the parties.

10. The Court concerned, where the litigation is pending between the parties, will accommodate them with one date in one calendar month.

11. I am supported by the decisions rendered by a Co-ordinate Bench of this Court in TA No. 1315/2022, titled as *Rohini Arora vs. Nitin Talwar*; TA No. 1322 of 2022, titled as *Jaswinder Kaur vs. Gurvinderjeet Singh*; TA No. 1323 of 2022, titled as *Usha Rani vs. Karmajit Singh*; and TA-610-2023, titled as *Hemal vs. Manuvrat*.

12. Accordingly, the present petition is disposed of directing the parties to appear before the District Judge, Bhiwani, on 30.04.2024. Copy of order be sent to both the District Judges for information and necessary compliance.

13. Pending applications, if any, also stand disposed of.

April 01, 2024

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(VIKAS SURI)
JUDGE

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