

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

118

TA-406-2024 (O&M)

Date of Decision: 03.04.2024

Meena Rani

...Petitioner

Versus

Surinder Pal Dass

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present:- Mr. Naveen Gupta, 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 9 of the Hindu Marriage Act, 1955 (for short 'the Act'), bearing case No. DMC/177/2023, titled as *Surinder Pal Dass vs. Meena Rani*, pending before the Principal Judge, Family Court, Rajpura, to a Court of competent jurisdiction at Ambala.

2. Learned counsel for the petitioner submits:-

- i) That the parties were married on 26.06.2006 as per Hindu rites and ceremonies.
- ii) That the parties cohabited as husband and wife and three children, namely Shivam Dass (aged about 14 years), Sakshi (aged about 13 years) and Simrandeep Kaur (aged about 17 years) were born out of the said wedlock, who are residing with the petitioner at Ambala.
- iii) That the distance between place of residence of the petitioner-wife i.e. Ambala and the place of proceedings under Section 9 of the Act, filed by the respondent-husband, pending before the

Principal Judge, Family Court, Rajpura, is about 50 kilometres on one side. The petitioner, who has the responsibility of three minor children, is not in a position to attend the proceedings at Rajpura.

iv) That the proceedings arising out of following petitions:-

(a) Complaint under Sections 12, 18 and 19 of the Protection of Women from Domestic Violence Act, 2005,

(b) FIR No.322 dated 16.11.2021, under Sections 323, 34, 406, 498-A and 506 IPC, at Police Station Parao, Ambala Cantt.,

filed/registered at the behest of petitioner-wife, are pending in Courts at Ambala, where the respondent-husband has already put in appearance and is attending the proceedings.

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, with the following directions:-

- a) The petition filed by respondent husband under Section 9 of the Hindu Marriage Act, 1955, bearing case No. DMC/177/2023, titled as *Surinder Pal Dass vs. Meena Rani*, pending before the Principal Judge, Family Court, Rajpura, is transferred to Court of competent jurisdiction at Ambala.
- b) The learned District Judge, Patiala is directed to transfer complete record pertaining to the aforesaid case to District Judge, Ambala.
- c) The parties through their counsel are directed to appear before the District Judge, Ambala, on 30.04.2024.
- d) The District Judge, Ambala, will assign the said petition to the Court of competent jurisdiction.

9. The concerned Court at Ambala 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. However, liberty is granted to the respondent to revive this petition, if he intends to contest the same, provided that:-

- (a) The respondent will clear all arrears of maintenance amount, if any, in terms of any petition filed by the

petitioner either under Section 125 Cr.P.C. or Section 12 of the Domestic Violence Act or Section 24 of the Hindu Marriage Act.

- (b) The respondent will file an affidavit giving undertaking to pay Rs.1,000/- per day, to the petitioner for attending the Court proceedings at District Courts, Rajpura, on each and every date of hearing.
- (c) The respondent will bring a demand draft of Rs.25,000/-, drawn in favour of petitioner, towards the litigation expenses to pursue the case at District Rajpura, in case the respondent opts to contest this petition.

12. 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*.

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

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

April 03, 2024

harish

(VIKAS SURI)
JUDGE

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