



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

TA-498-2022(O&M)
Date of Decision: October 24, 2024

Gurdeep Kaur Chadha and others
...Applicants

Versus

Ujagar Singh
...Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Yogesh Goel, Advocate
for the applicants.

Mr.Rahul Deswal, Advocate
for the respondent.

ARCHANA PURI, J.

Applicant No.2-Komalpreet Kaur and her parents have filed the present application for seeking transfer of Civil Suit bearing No.CS/2198/2021 dated 30.11.2021 titled as ‘Ujagar Singh vs. Parminder Singh’. The said suit has been filed by Ujagar Singh, who is father-in-law of applicant No.2-Komalpreet Kaur, which is pending in the Court at Patiala and the applicants seek transfer of the same, to the Court of competent jurisdiction at Ludhiana.

In pursuance of the notice issued by the Court, the respondent made appearance and filed reply.

Learned counsel for the parties heard.



At the very outset, it is submitted by learned counsel for the applicants that applicant No.2-Komalpreet Kaur is married to son of respondent-Ujagar Singh, namely Jaspreet Singh. However, matrimonial dispute arose between the two, as a result whereof, various rounds of litigation were initiated. However, it is submitted that even though, applicant No.2-Komalpreet Kaur has parted ways with her husband, but respondent-Ujagar Singh, who is father-in-law of applicant No.2, has filed a suit for damages and monetary compensation for malicious prosecution, which is pending in Court at Patiala. Also, it is submitted that Parminder Singh Chadha has filed a complaint under Section 406 and 34 IPC against Jaspreet Singh as well as Ujjagar Singh and three other persons. In the said complaint, respondents have been summoned by the Court and the same is pending adjudication in the Court at Ludhiana.

Keeping in view applicants No.1 and 3, to be aged persons, a prayer has been made for the transfer of the civil suit, filed at the instance of the respondent. To strengthen his submissions, learned counsel for the applicants has placed reliance upon *N.C.V. Aishwarya vs. A.S.Saravana Karthik Sha, 2022 INSC 1310*.

On the other hand, learned counsel for the respondent has assiduously submitted that applicants have not filed the present application with clean hands. Rather, it is submitted that the complaint, of which reference is made by counsel for the applicant, was filed earlier and it was not informed in the transfer application, about the respondents, having not been summoned in the aforesaid complaint, till the filing of the transfer

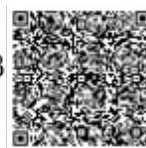


application. Also, it is submitted that divorce has been effected between Komalpreet Kaur and Jaspreet Singh @ Jass Chandok, who is son of respondent-Ujagar Singh. All terms of settlement were reached between them, as the divorce was granted on consensual basis and in this regard, reference is made to Annexure P-17. Also, it is submitted by learned counsel for the respondent, while making reference to the reply, that as many as ten complaints were filed, detail whereof, is given in paragraph No.7 of the reply. Out of the same, complaints from Sr.No.1 to 4, were filed prior to the effecting of the divorce between Komalpreet Kaur and Jaspreet Singh and complaints from Sr.No.5 to 10 were filed after the divorce having been effected between Komalpreet Kaur and her husband.

It is submitted by learned counsel for the respondent that if the applicants could pursue the litigation to such an extent and file about ten complaints, then, they can very well pursue the civil suit, filed at the instance of the respondent, pending at Patiala.

Also, it is submitted that in the complaint, reference whereof, was made by learned counsel for the applicants, the process of summoning of the present respondent as well as other persons, who were arrayed as accused, has been stayed by this Court in **CRM-M Nos.14374, 37029 and 54449 of 2023**.

In view of the submissions aforesaid, beneficial reference is made to decision rendered in *N.C.V. Aishwarya's case (supra)*, 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.”

No doubt, it is held time and again, by the Courts that preference, ought to be given to the convenience of the wife, in the eventuality of transfer application having filed, as a result of the matrimonial dispute, but however, it is not a thumb rule. Various other circumstances, spelt out, from the material coming on record, ought to be taken into consideration by the Courts. No doubt, the civil suit, which is now sought to be transferred by the applicants, is an off-shoot of the matrimonial dispute of applicant No.2-Komalpreet Kaur with her husband Jaspreet Singh, but however, divorce has been effected between estranged couple.

So far as, the complaints, as detailed in paragraph No.7 of the



reply is concerned, though, it is submitted by learned counsel for the applicants that many of the complaints were repetition/reminders of the complaints earlier filed, but however, it is evident that even the complaints were filed after effecting of the divorce between Komalpreet Kaur and Jaspreet Singh and the same, as per the annexures, annexed with the reply, have already been filed by the police authorities.

Moreover, it is pertinent to mention that applicant No.2- Komalpreet Kaur, whose convenience, ought to have been given preference, is not residing in India. In fact, she is residing in Australia and pursuing the litigation through her attorney holder, who is her father. Considering the same, also it should be taken note that applicants No.1 and 3 as well as respondent, in all probabilities, being parents of Komalpreet Kaur and her husband, ought to be of equi age.

Considering the same and considering various rounds of litigation, initiated at the instance of the applicants, on account of matrimonial dispute of Komalpreet Kaur with her husband, which was pursued by them and more particularly, considering applicant No.2- Komalpreet Kaur, to be residing abroad, no such case is made out for allowing the transfer application.

Hence, the present transfer application stands dismissed.

October 24, 2024
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No