

**IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH**

**Sr. No.107**

**TA-530-2023**

**Date of Decision: 13.08.2024**

**PRIYANKA ARORA**

**....Applicant**

**Versus**

**MADHUR**

**.....Respondent**

**CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI**

Present:- Mr. Pankaj Bali, Advocate  
for the applicant.

Mr. Virender Kumar, Advocate  
for the respondent.

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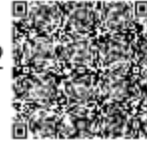
**ARCHANA PURI, J. (Oral)**

The applicant-wife has filed the present application for seeking transfer of the petition under Section 13 of the Hindu Marriage Act i.e. DMC/938/2022, titled '*Madhur Vs. Priyanka*', filed at the instance of respondent-husband, pending in Family Court Rohtak, to the Court of competent jurisdiction at Karnal.

In pursuance of the notice issued, respondent has made appearance through counsel and filed reply.

Learned counsel for the parties heard.

At the very outset, learned counsel for the applicant has submitted that the marriage between the parties to the lis had taken place on 15.02.2016 and a child was born from their wedlock on 05.09.2018. The said child is presently in the care and custody of the respondent-husband. It is further submitted that the petition under Section 12 of the Protection of Women from Domestic Violence Act, as well as petition under Section 125

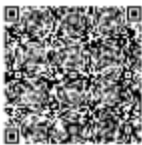


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Cr.P.C., are already pending in the Courts at Karnal. Even, the trial qua FIR No.24 dated 14.01.2023, under Sections 323 and 498-A IPC, got lodged at the instance of the applicant at Police Station Indri, District Karnal, is pending in the Courts at Karnal. In the given circumstances, learned counsel makes a prayer for transfer of the divorce petition, pending at Family Court Rohtak, to the Court of competent jurisdiction at Karnal.

On the contrary, learned counsel for the respondent has resisted the claim for transfer of the divorce petition. While making reference to the reply filed in the form of an affidavit of the respondent, as well as Annexures with regard to medical treatment, the counsel for the respondent has submitted that the daughter born from the wedlock of the parties, who is aged 6 years, is in the care and custody of the respondent. Further, it is submitted that the said child is a Special child by birth and she is undergoing treatment from Dr. R.K. Jain (Neurologist) Gurugram, as well as PGIMS, Rohtak, continuously, since September 2018, till date. The respondent is employed at a cloth shop at a fixed salary of Rs.8000/- per month and as such, on account of ailment of the daughter, he finds it difficult to have a lucrative job.

It is pertinent to mention that from the medical records, annexed with the reply, it is evident that the girl child, aged 6 years, who is a 'special child', is in the care and custody of the respondent and she requires extra care for her upbringing. She is undergoing treatment at PGIMS, Rohtak. No doubt, it has been held, time and again by the Courts, about the convenience of the wife to be taken into consideration, in a matrimonial dispute, while considering the transfer application, but however, the other circumstances spelt out, also ought to be taken into consideration.



In the case in hand, the child is 6 years old and being a special child, requires all the more, extra care for his upbringing. In the given circumstances, it is an arduous duty, performed by the respondent-husband, while taking care of the said child. On query, it has been disclosed by the counsel for the applicant that the applicant is a post graduate, as she has done M.Sc. (Computers). Looking at her educational qualification, it is quite obvious that the applicant can commute from a distance of about 120 kilometres to defend the divorce petition. The inconvenience, if any, caused to the applicant, is on a lesser side, while taking into consideration the arduous duty performed by the respondent/husband, in taking care of the ‘special child’, more particularly, when the extensive medical treatment is undertaken by the child.

Considering the aforesaid facts and circumstances, no case is made out for transfer of the divorce petition. As such, the present application is hereby dismissed.

13.08.2024  
Himanshu

(ARCHANA PURI)  
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No