

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

213 TA-580-2023 (O&M)
Date of decision: 18.04.2024

Rajni
...Petitioner

Versus

Mukesh
...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present: Mr. Amit Bansal, Advocate for
Mr. Ashutosh Kaushik, Advocate for the petitioner.

VIKAS SURI, J.

1. Prayer in this petition filed by petitioner-wife is for transfer of the petition filed by respondent-husband under Section 13 of the Hindu Marriage Act, 1955 (for short ‘the Act’) titled as *Mukesh vs. Rajni*, pending in the Court of learned Principal Judge, Family Court, Hisar to a Court of competent jurisdiction at Sonapat.
2. Learned counsel for the petitioner submits:-
 - i) That the parties were married on 12.12.2013 according to Hindu rites and ceremonies.
 - ii) That the petitioner-wife is living separately from the respondent-husband and is living with her parents.
 - iii) That the petitioner has no source of income and totally dependent upon her parents.
 - iv) That two cases i.e. FIR dated 17.01.2022, registered under Sections 313, 323, 494 and 506 IPC as well as petition under Section 125 Cr.P.C., filed by the petitioner-wife is

pending before the Court of competent jurisdiction at Sonapat.

- v) That the distance between place of residence of the petitioner-wife i.e. Sonapat and the place of proceedings under Section 13 of the Act, filed by the respondent-husband, is about 164 kilometers on one side.

3. Upon notice, respondent-husband put in appearance through counsel who had sought time to file reply. However, no reply has been placed on record till date. On resumed hearing today, no one appears for the respondent. It is apparent from the conduct of the respondent-husband that he is not serious to contest the present proceedings. Accordingly, this petition is being disposed of in his absence.

4. I have 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 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 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 record 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 dispose of the present petition with the following directions:-

- a) The petition filed by respondent husband under Section 13 of Act, titled as *Mukesh vs. Rajni*, pending in the Court of learned Principal Judge, Family Court, Hisar is transferred to a Court of competent jurisdiction at Sonapat.
- b) The District Judge, Hisar is directed to transfer complete record pertaining to the aforesaid case to District Judge, Sonapat.
- c) The parties are directed to appear before the District Judge, Sonapat on 15.05.2024.
- d) The District Judge, Sonapat will assign the said petition to the Court of competent jurisdiction.

9. The concerned Court at Sonapat 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 petition is disposed of.

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

12. A copy of this order be sent to both the District Judges concerned, for information and necessary compliance.

April 18, 2024
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(VIKAS SURI)
JUDGE

Whether speaking/reasoned : Yes / No
Whether Reportable : Yes / No