

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.101

TA-589-2023

Date of Decision: 01.10.2024

PARUL KATHURIA

....Applicant

Versus

RAHUL JUNEJA

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Mr. Abhimanyu Batra, Advocate
for the applicant.

Mr. Ankur Dua, Advocate
for the respondent.

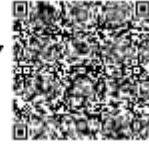
ARCHANA PURI, J. (Oral)

The applicant-wife has filed the present application for seeking transfer of the petition under Section 13 of the Hindu Marriage Act, titled '*Rahul Juneja Vs. Parul Juneja*', filed by the respondent-husband, pending in the Family Court, Rohtak and she seeks transfer of the same to the Court of competent jurisdiction at Jind.

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

Learned counsel for the parties heard.

At the very outset, the counsel for the applicant has submitted that the marriage had taken place, between the parties to the lis, on



TA-589-2023

30.04.2021, but no child was born from the said wedlock. However, due to the matrimonial discord, the parties are residing separate. The applicant had already initiated the proceedings under Section 12 of the Protection of Women from Domestic Violence Act, as well as filed the petition under Section 125 Cr.P.C. and the same are pending in the Courts at Jind. In the petition under Section 125 Cr.P.C., the respondent has already made appearance, whereas, the petition under Section 12 of the Protection of Women from Domestic Violence Act, is at the appearance stage.

Moreover, FIR bearing No.166 dated 27.09.2022, under Sections 406, 498-A, 506 and 34 IPC, was got lodged by the applicant, at Women Police Station, Jind. Now, after completion of the investigation, challan has been presented in the Court and the case is fixed for prosecution evidence. Also, it is submitted that the applicant is pursuing M.Phil. The applicant has no source of earning and is totally dependent upon her aged parents. As such, a prayer has been made for acceptance of the transfer application.

However, the counsel for the respondent has assiduously submitted that the applicant has concealed the material fact of arrival of compromise, at earlier stage, which has bearing on the transfer application. In fact, it is submitted that it was on 13.02.2022, that compromise was effected between the parties, copy whereof is Annexure R-1. On the basis of the said compromise, the cheque bearing No.795292, for an amount of Rs.1,50,000/-, was issued in favour of the applicant and an amount of Rs.1,00,000/- was paid in cash. The writing executed, with regard to handing over the cheque and cash amount, is Annexure R-2. However, it is submitted that on the basis of the aforesaid compromise, the petition under Section 13-B of the Hindu Marriage Act, was to be filed, but the applicant



TA-589-2023

backed out from the said compromise and did not cooperate with the respondent, for filing of the petition under Section 13-B of the Hindu Marriage Act. Even, the cheque, as well as, the amount paid in cash, are with the applicant. The aforesaid factum of arrival of compromise and backing out of the applicant, from the said compromise, has been concealed in the transfer application. Precisely, on this account, the counsel for the respondent has submitted that no case is made out for allowing the transfer application.

In view of the rival submissions made, it is observed that, even though, time and again, it has been held by the Courts that weightage ought to be given to the convenience of the wife, in the transfer applications relating to the matrimonial dispute, but however, it is not a thumb rule. Various other circumstances, spelt out from the material brought on record, also ought to be taken into consideration.

In the present case, as submitted by the counsel for the respondent, compromise had been effected between the parties, on the basis whereof, the petition under Section 13-B of the Hindu Marriage Act, was also required to be filed. However, in compliance of the agreement (Annexure R-1), even the cheque amounting to Rs.1,50,000/-, as well as the cash amount of Rs.1,00,000/-, was paid by the respondent, to the applicant side, copy whereof is Annexure R-2. However, the aforesaid fact of receipt of the amount, in pursuance of arrival of compromise, at first instance, was not disclosed by the applicant, in her transfer application. Moreover, it is now submitted by the counsel for the applicant that the said compromise was effected at the instance of the father of the applicant. May it be so. But, it was required on the part of the applicant, to have disclosed about arrival of



the compromise, at first instance and whether or not, it was complied with. Also, under what circumstances, the applicant backed out from the compromise, ought to have been disclosed, but however, the said material facts, have been concealed.

Considering the conduct of the applicant, no case is made out for allowing the transfer application. Hence, the same is hereby dismissed.

01.10.2024
Himanshu

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No