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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-23884-2024 (O&M)
Date of decision: 30.09.2024

Dr. Vinit Gupta

... Petitioner

Vs.

Dr. Rammy Garg and others

... Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Yogesh Goel, Advocate,
Mr. Rushit Goel, Advocate,
Mr. Aniket Goel, Advocate
for the petitioner.

Mr. Ankur Ghai, Advocate
for respondent No.1 (*through video conferencing*).

HARPREET SINGH BRAR, J. (ORAL)

1. The present petition has been filed under Section 407 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') seeking transfer of petition under Section 125 Cr.P.C. bearing case No.MNT125/189/2024 dated 27.03.2024 filed by the respondents (Annexure P-2) from the Court of learned Additional Principal Judge, Family Court, Ludhiana to the competent Court of jurisdiction at SAS Nagar (Mohali).



2. Learned counsel for the petitioner, *inter alia*, contends that marriage of the petitioner was solemnized with respondent No.1 on 09.12.2012 according to Hindu rites and rituals and out of this wedlock, two children i.e. one daughter and one son were born and now they are studying in Delhi Public School, Ambala. It is further contended that respondent No.1 is working at Sub Divisional Hospital, Civil Hospital, Dera Bassi, SAS Nagar (Mohali) and she filed the petition under Section 125 Cr.P.C. at Ludhiana just to harass the petitioner. The petitioner is running an Ultrasound Scan Centre at Lalru, Dera Bassi, District SAS Nagar (Mohali) and he along with his mother is residing in Ambala City. Further, there is a distance of 125 kms between Ludhiana and Mohali. In view of the aforesaid position, the petition under Section 125 Cr.P.C. may be transferred from the Court of learned Additional Principal Judge, Family Court, Ludhiana to the Court of competent jurisdiction in District SAS Nagar (Mohali).

3. Learned counsel for respondent No.1 could not controvert the fact that respondent No.1 is working at Sub Divisional Hospital, Civil Hospital, Dera Bassi, SAS Nagar (Mohali) and both the minor children i.e. respondents No.2 & 3 are studying in Delhi Public School, Ambala.

4. I have heard learned counsel for the parties and perused the record with their able assistance.

5. It is admitted fact that respondent No.1 is working at Sub Divisional Hospital, Civil Hospital, Dera Bassi, SAS Nagar (Mohali) and the



petitioner is running an Ultrasound Scan Centre at Lalru, Dera Bassi, District SAS Nagar (Mohali). Furthermore, there is a distance of 125 kms between Ludhiana and Mohali and it would cause immense hardship to both the parties, as they will have to bear the transportation expenses to attend the Court proceedings on each and every date at Ludhiana, as both the parties are residing within the jurisdiction of District SAS Nagar (Mohali).

6. A two Judge Bench of the Hon'ble Supreme Court dealt with power of the Court to transfer proceedings under Sections 24 and 25 of the Civil Procedure Code in ***Kulwinder Kaur @ Kulwinder Gurcharan Singh Vs. Kandi Friends Education Trust, AIR 2008 SC 1333***, wherein it was held that the power to make such transfers is discretionary in nature and hence, it would be unwise to attempt to shackle it with a blanket formula uniformly applicable to all situations. However, it cannot be denied that the power must be used with abundance of care and caution. Further, a three Judge Bench of the Hon'ble Supreme Court in ***Gana Saraswathi Vs. H. Raghu Prasad, (2000) 10 SCC 277*** had observed that in the interest of justice, the doctrine of forum non-conveniens can also be extended to matrimonial proceedings. It was stated that Courts usually allow transfer petitions in such cases to ensure that the wife does not suffer on account of not being able to participate in the proceedings.

7. In view of the aforementioned facts and circumstances of the case, present petition is allowed. Resultantly, petition under Section 125



Cr.P.C. bearing case No.MNT125/189/2024 dated 27.03.2024 filed by the respondents, pending before the Court of learned Additional Principal Judge, Family Court, Ludhiana is ordered to be transferred to the jurisdiction of District and Sessions Judge, SAS Nagar (Mohali). The District and Sessions Judge, Ludhiana is directed to transfer the record pertaining to the aforesaid case to the District and Sessions Judge, SAS Nagar (Mohali), who will assign the said petition to the competent Court of jurisdiction at Dera Bassi. The parties are directed to appear before learned Family Court at SAS Nagar (Mohali) within a period of 30 days from today.

[HARPREET SINGH BRAR]
JUDGE

30.09.2024
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No