

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.107

TA-706-2023

Date of Decision: 24.09.2024

VINITA

....Applicant

Versus

ANURAG

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Ms. Rajni Bala Rohilla, Advocate
for the applicant.

Mr. Sushil Sheoran, Advocate
for the respondent.

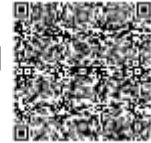
ARCHANA PURI, J. (Oral)

The applicant-wife has filed the present application for seeking transfer of the petition under Section 13 of the Hindu Marriage Act i.e. HMA/509/2020, titled '*Anurag Vs. Vinita*', filed by the respondent-husband, pending in the Family Court, Bhiwani and she seeks transfer of the same to the Court of competent jurisdiction at Charkhi Dadri.

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

Learned counsel for the parties heard.

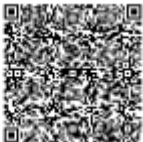
At the very outset, it is submitted by the counsel for the applicant that the marriage between the parties to the lis, had taken place on 17.02.2018 and two children were born from the said wedlock, but however, they did not survive. The trial qua FIR No.25 dated 03.12.2020, under Sections 323, 34, 354, 377, 498-A and 506 IPC, FIR No.198 dated 16.08.2021, under Sections 323, 325, 34, 341 and 506 IPC and FIR No.150



dated 26.05.2022, under Sections 323, 34, 341, 506 and 509 IPC, are already pending in the Courts at Charkhi Dadri. Besides the same, the applicant has filed the petition under Section 125 Cr.P.C. and the petition under Section 12 of the Protection of Women from Domestic Violence Act and the same are also pending in the Courts at Charkhi Dadri. Also, it is submitted that there is danger to the life of the applicant, at the instance of the respondent, if she goes to Bhiwani Courts, to defend the divorce petition. In the given circumstances, it is submitted that it is difficult for the applicant to commute a distance of about 35 kilometres, to defend the divorce petition.

On the contrary, the counsel for the respondent has assiduously refuted the claim for transfer of the divorce petition. In fact, it is submitted by the counsel that the evidence of the respondent has already been closed in the divorce petition. Now, the case is at the stage of recording of evidence of the applicant (who is respondent before the Family Court). Also, it is submitted that the applicant is working as a Lecturer in Senior Secondary School in Charkhi Dadri. Also, it is submitted that false allegation, with regard to threat to her life, existing at the instance of the respondent, has been made. In fact, she had pursued the divorce petition and the same is now at the stage of recording of evidence of the respondent.

In view of the submissions aforesaid, it is pertinent to mention that even though, the applicant is working as a Lecturer, which fact has been disclosed by the counsel for the respondent, but however, this fact was never disclosed in the application. In the given circumstances, there is concealment of the material fact. No doubt, it has been held by the Courts, time and again, about weightage 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, coming forth, have also to be taken into consideration.

As observed aforesaid, there is concealment of fact of vocation followed by the applicant, in the application. Furthermore, considering the applicant to be having an independent source of earning, it shall not be difficult for her to defend the divorce petition, from a distance of about 35 kilometres, from the place of her residence and workplace, more particularly, when she had filed the transfer application after a period of three years, when the same had reached the stage of recording of the respondents evidence.

Considering the aforesaid fact situation, no case is made out for allowing the transfer application. Hence, the same is hereby dismissed.

24.09.2024
Himanshu

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No