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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-28313-2024

Date of decision: 22.08.2024

Shivani @ Shiwani and another

....Petitioners

Versus

Vikram Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. Mohit Shukla, Advocate for
Mr. Sahil Gambhir, Advocate
for the petitioners.Mr. Nirmal Singh, Advocate
for the respondent.**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.') read with Section 482 Cr.P.C. seeking transfer of petition titled as '*Shivani and another Vs. Vikram Singh*' (MNT124/37/2021) CNR No. HRYNF20001382021 under Section 125 of Cr.P.C. dated 05.08.2021 (Annexure P-1) pending in the Court of learned Additional Principal Judge, Family Court, Yamuna Nagar at Jagadhri to the competent Court of jurisdiction at District Ludhiana.

2. Learned counsel for the petitioners, *inter alia*, contends that the petitioners are living in Ludhiana. It is further contended that the distance between Yamuna Nagar at Jagadhri and Ludhiana is 200 km and as such, it is very difficult for them to travel to Yamuna Nagar to pursue the case in question.

3. Further, learned counsel for the petitioners relies upon the judgments rendered by the Hon'ble Supreme Court in *Sumita Singh Vs.*

Kumar Sanjay and another, AIR 2002 SC 396 and Rajani Kishor Pardeshi



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Vs. Kishor Babulal Pardeshi, (2005) 12 SCC 237 to contend that while deciding the transfer applications, more weightage and consideration should be given to the convenience of the female litigants and transfer of legal proceedings from one Court to another Court should ordinarily be allowed in order to avoid undue hardship to the female litigants.

4. At this stage, Nirmal Singh, Advocate has filed *vakalatnama* on behalf of the respondent, which is taken on record. He has opposed the prayer for transfer of the aforementioned case from the Court of learned Additional Principal Judge, Family Court, Yamuna Nagar at Jagadhri to the competent Court of jurisdiction at District Ludhiana.

5. Heard.

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. A two Judge Bench of the Hon'ble Supreme Court in ***N.C.V. Aishwarya Vs. A.S. Saravana Karthik Sha, 2022 SCC OnLine SC 1199*** 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 socio-economic 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.”

8. In the present case, petitioner No.1 has to look after her minor daughter i.e. petitioner No.2, who is residing with her. Furthermore, distance of Yamuna Nagar at Jagadhri from Ludhiana is 200 km and, therefore, it would cause immense hardship to the petitioners, much less, they will have to bear the transportation expenses to attend the Court proceedings on each and every date.

9. In view of the law settled by the Hon’ble Supreme Court in *Sumita Singh*’s case (supra), *Rajani Kishor Pardeshi*’s case (supra) and *N.C.V. Aishwarya*’s case (supra), present petition is allowed. Resultantly, petition titled as ‘*Shivani and another Vs. Vikram Singh*’ (MNT124/37/2021) CNR No. HRYNF20001382021 under Section 125 of Cr.P.C. dated 05.08.2021 (Annexure P-1) pending in the Court of learned Additional Principal Judge, Family Court, Yamuna Nagar at Jagadhri is ordered to be transferred to the jurisdiction of District and Sessions Judge, Ludhiana. The District Judge, Yamuna Nagar is directed to transfer the record pertaining to the aforesaid case to the District Court, Ludhiana, who will assign the said case to the competent Court of jurisdiction at Ludhiana. The parties are directed to appear before the learned trial Court within a period of 30 days from today.

(HARPREET SINGH BRAR)
JUDGE

22.08.2024
Neha

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No