

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-28895-2024
Date of decision: 31.05.2024

....Petitioner

Versus

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Vaibhav Vats, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. The present petition has been filed under Section 407 read with Section 482 Cr.P.C. for transfer of the trial in case bearing FIR No.258 dated 10.09.2023 under Sections 323/498-A/506/34/406 of IPC registered at Police Station Shahzadpur (Annexure P-1), case No. CHI/437/2023 titled as 'State of Haryana Vs. Chirag Gulati and others' pending in the Court of the learned Judicial Magistrate 1st Class, Naraingarh to any competent Court at Ludhiana. Earlier, the petitioner has also filed transfer application bearing No. TA-697-2024 which was dismissed as withdrawn with the liberty to file afresh with better particulars and by mentioning the correct case nomenclature vide order dated 27.05.2024 passed by this Court.

2. Learned counsel for the petitioner *inter alia* contends that petitioner has performed marriage with respondent No.4 and gave dowry and other items as demanded by him and his family members. After the marriage,



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the petitioner and respondent No.4 started cohabiting together as husband and wife in Naraingarh, Ambala, Haryana. The petitioner had been living in her maternal home for the last two years preceding the registration of FIR. Since, dowry demands of respondents No.4 to 6 were not met, they sent the petitioner to her maternal home. On 08.09.2023, family members of petitioner brought the petitioner to her matrimonial home in Naraingarh with the consent of her in-laws but after the family of petitioner left the place, her in-laws pushed her out of the house and resorted to physical violence and thus, the FIR got registered. Thereafter, the petitioner has filed a petition under Section 12 of the Protection of Women from Domestic Violence Act, 2005 against respondents No.4 to 7 in Ludhiana which is pending before the learned Judicial Magistrate 1st Class, Ludhiana. Thereafter, the petitioner has filed petition under Section 125 Cr.P.C. for grant of maintenance allowance in Ludhiana which is pending before the learned Family Court, Ludhiana. It is further alleged that the petitioner is already burned with the litigation costs of CIS No. COMA/50778/2023 and CIS No. MNT/125/34/2014 pending in Ludhiana and, therefore, petitioner has to travel approximately 300 kms (approximately 158 Kms for one side) to appear before the learned Judicial Magistrate 1st Class, Naraingarh and as such, it is very difficult for her to travel to Naraingarh to pursue the litigations.

3. Further, learned counsel for the petitioner 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 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



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proceedings from one Court to another Court should ordinarily be allowed in order to avoid undue hardship to the female litigants.

4. Heard.

5. 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.

6. 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.”*

7. In the present case, distance of Naraingarh to Ludhiana is 158 kms approximately and therefore, it would cause immense hardship to the petitioner, much less, petitioner will have to bear the transportation expenses to attend the Court proceedings on each and every date.

8. 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, trial of FIR No.258 dated 10.09.2023 under Sections 323/498-A/506/34/406 of IPC registered at Police Station Shahzadpur (Annexure P-1), case No. CHI/437/2023 titled as ‘State of Haryana Vs. Chirag Gulati and others’ pending in the Court of the learned Judicial Magistrate 1st Class, Naraingarh is ordered to be transferred to the jurisdiction of District and Sessions Judge, Ludhiana. The District Judge, Ambala 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 Court concerned within a period of 30 days from today.

(HARPREET SINGH BRAR)
JUDGE

31.05.2024

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