



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.228

TA-765-2024

Date of Decision: 28.08.2024

JASMEEN KAUR

....Applicant

Versus

ANEET PAL SINGH

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Mr. Kunwar Ranjan, Advocate
for the applicant.

Mr. Raj Kumar Kakkar, 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. DMC/241/2024, titled '*Aneet Pal Singh Vs. Jasmeen Kaur*', filed at the instance of respondent-husband, pending in Family Court Ferozepur, to the Court of competent jurisdiction at Sri Muktsar Sahib.

In pursuance of the notice issued, respondent has 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 no child was born from the wedlock of the parties to the lis. However, due to the matrimonial discord, they are residing separate. The applicant is having no source of earning and is dependent upon her parents. Prior to



filing of the divorce petition, the applicant had filed the petition under Section 9 of the Hindu Marriage Act, which is already pending in the Courts at Sri Muktsar Sahib. In the given circumstances, it is submitted that it is difficult for the applicant to defend the divorce petition, from a distance of about 75 kilometres. As such, a prayer has been made for acceptance of the transfer application.

On the other hand, the counsel for the respondent has assiduously submitted that the distance between the two places is only 50 kilometres and it should not be difficult for the applicant to defend the divorce petition from this distance. As such, a prayer has been made for dismissal of the transfer application.

In view of the submissions aforesaid, beneficial reference is made to *N.C.V. Aishwarya vs. A.S.Saravana Karthik Sha, 2022 INSC 1310*, wherein, the Hon'ble Supreme Court made observations, with regard to the various conditions, ought to be taken into consideration, while dealing with the transfer of the legal proceedings, which are reproduced, as herein given:-

“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.”

Also, reference is made to ***Sumita Singh vs. Kumar Sanjay and another, 2001(10) SCC 41***, and ***Rajani Kishor Pardeshi vs. Kishor Babular Pardeshi, 2005(12) SCC 237***, wherein, it has been observed that convenience of the wife is to be preferred and looked into.

It is well settled that while considering the transfer of the matrimonial dispute/case, the Court is to consider the family condition of the wife, custody of the children, economic condition of the wife, her physical health and the extent of her earning capacity, as well as earning capacity of the husband and most important, convenience of the wife, more particularly, considering the distance between the two places, where the litigation is already pending and is proposed to be now transferred and also about the connectivity of the place from her place of residence and bearing of the litigation charges and travelling expenses.

Adverting to the case in hand, considering the submissions made by the counsel for the applicant and also considering the distance, from which the applicant is to defend the divorce petition, the present application is hereby accepted and the petition under Section 13 of the Hindu Marriage Act i.e. DMC/241/2024, titled '*Aneet Pal Singh Vs. Jasmeen Kaur*', filed at the instance of respondent-husband, stands transferred from Family Court Ferozepur, to the Court of competent jurisdiction at Sri Muktsar Sahib. The requisite record of the aforesaid case be sent by Family Court Ferozepur, to the District and Sessions Judge, Sri Muktsar Sahib.



Learned District and Sessions Judge, Sri Muktsar Sahib, shall assign the said petition to Family Court Sri Muktsar Sahib. Even, the parties are directed to appear before Family Court Sri Muktsar Sahib, within a period of one month from today onwards.

28.08.2024
Himanshu

(ARCHANA PURI)
JUDGE

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