

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

TA-885-2023(O&M)
Date of Decision: July 30, 2024

Sujata

...Applicant

Versus

Ravinder Kumar

...Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Angrej Kumar, Advocate
for the applicant.

None for the respondent.

ARCHANA PURI, J.

The applicant-wife has filed the present application for seeking transfer of the petition under Section 13 of the Hindu Marriage Act, filed at the instance of respondent-husband, pending in the Family Court, Ganaur, District Sonapat to the Court of competent jurisdiction at Karnal.

In pursuance of the notice issued by the Court, none had made appearance of the respondent, despite service.

Learned counsel for the applicant heard.

It is submitted by learned counsel for the applicant-wife that the applicant is residing at her parental house in Karnal. She has already lodged FIR against the respondent under Sections 323, 34 and 498-A IPC on



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21.04.2022. Even, the respondent, without seeking divorce from the applicant, had solemnized second marriage at Jaat Dharamshala, Safidon, District Jind, with Rani @ Khushi d/o Fateh Singh, resident of Ward No.15, Shiv Colony, Safidon. Even, written complaint has been made by the applicant to the Superintendent of Police, Karnal, on 12.12.2022, which is still pending. The respondent, in order to counter the said complaint, had prepared false deed of relationship dated 13.01.2023, thereby, showing that respondent and Rani @ Khushi, to be living in live-in relationship. The applicant had also filed petition under Section 125 Cr.P.C., which is pending in the Family Court, Karnal.

In these circumstances, it is submitted by learned counsel that the applicant-wife finds it difficult to defend the litigation, thrust upon, at the behest of the respondent-husband at Ganaur, District Jind, which is at a distance of 90 Kms. from her place of residence.

In view of the submissions aforesaid, at the very outset, 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



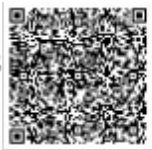
pattern, their standard of life prior to the marriage and subsequent thereto and the circumstances of both the parties in eking out their livelihood and under whose protective umbrella they are seeking their sustenance to life. Given the prevailing socio-economic paradigm in the Indian society, generally, 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, at the instance of the wife, 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.

Considering the submissions made by learned counsel for the applicant and the various circumstances, as spelt out from the application, the application, as such, is hereby accepted and petition bearing No.DMC-



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27-2023, titled as ‘Ravinder Kumar vs. Sujata’, filed under Section 13 of the Hindu Marriage Act, 1955’, stands transferred from the Family/Camp Court, Ganaur to the Court of competent jurisdiction at Karnal. The requisite record of the aforesaid divorce petition shall be transferred by the Family/Camp Court, Ganaur to District and Sessions Judge, Karnal.

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

July 30, 2024
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No