



TA-925-2023; TA-931-2023 AND
CRM-M-13634-2022 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of Decision: 09.08.2024

1.

TA-925-2023

GURPREET KAUR

....Applicant

Versus

JATINDER SINGH

.....Respondent
2.

TA-931-2023

GURPREET KAUR

....Applicant

Versus

JATINDER SINGH

.....Respondent
3.

CRM-M-13634-2022 (O&M)

JATINDER SINGH

....Petitioner

Versus

GURPREET KAUR AND ANOTHER

.....Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Ms. Jasleen Kaur, Advocate
for the applicant (in TA-925-2023 and TA-931-2023) and
for the respondent (in CRM-M-13634-2022).

Mr. Brijesh Nanda, Advocate
for the respondent (in TA-925-2023 and TA-931-2023) and
for the petitioner (in CRM-M-13634-2022).

Ms. Jagriti Kalia, Assistant Advocate General, Punjab
(in CRM-M-13634-2022).

ARCHANA PURI, J. (Oral)

These are three transfer applications/petitions, filed by the rival parties, thereby seeking transfer of the pending litigation.



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TA-925-2023, titled '*Gurpreet Kaur Vs. Jatinder Singh*' has been filed by the applicant-wife, for seeking transfer of the petition under Section 13 of the Hindu Marriage Act i.e. HMA/56/2023, titled '*Jatinder Singh Vs. Gurpreet Kaur*', filed at the instance of respondent-husband, pending in the Family Court Sangrur, to the Court of competent jurisdiction at SAS Nagar.

In the application, it is averred that the applicant is working as a Constable in Police Department i.e. NRI Wing, Mohali (Punjab). The marriage of the applicant had taken place with the respondent on 30.01.2015 and daughter, namely, Gurman Kaur, was born from the said wedlock on 27.10.2015. Further, the application narrates about the maltreatment extended to the applicant, at the instance of the respondent and his family members. Ultimately, she was turned out of the matrimonial home. Now, the daughter, Gurman Kaur, aged 8 years, is studying in D.P.S. School, SAS Nagar. As such, it is pleaded that it is difficult for the applicant to defend the divorce petition, filed at the instance of the respondent-husband, at a distance of about 125 kilometres. As such, a prayer has been made for transfer of the divorce petition from Sangrur, to the Court of competent jurisdiction at SAS Nagar.

On similar lines, TA-931-2023, titled '*Gurpreet Kaur Vs. Jatinder Singh*' has also been filed by the applicant-wife, for seeking transfer of the petition under Section 25 of the Guardians and Wards Act i.e. GW/7/2020, titled '*Jatinder Singh Vs. Gurpreet Kaur and others*', filed at the instance of respondent-husband, pending in the Courts at Sangrur, to the Court of competent jurisdiction at SAS Nagar.



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On the other hand, the husband has also filed petition i.e. CRM-M-13634-2022, titled '*Jatinder Singh Vs. Gurpreet Kaur and another*', for seeking transfer of the petition filed under Section 125 Cr.P.C., i.e. MNT/17/2018, titled '*Gurpreet Kaur and another Vs. Jatinder Singh*', filed at the instance of the wife, from Family Court, SAS Nagar, to the Court of competent jurisdiction at Sangrur.

Therein, it is pleaded by the husband that an FIR bearing No.30 dated 23.04.2017, under Sections 406 and 498-A IPC, was got lodged by the wife at Police Station Sadar, District Sangrur, which is pending before the Court of Chief Judicial Magistrate, Sangrur. Furthermore, it is also pleaded that the petition under Section 9 of the Hindu Marriage Act, was filed by the wife, which was pending in the Courts at Dhuri, District Sangrur. However, it is now brought to the notice of the Court that the said petition has since been withdrawn. Besides the aforesaid petitions, another petition under Section 25 of the Guardians and Wards Act was filed by the husband, for seeking custody of the minor daughter, is pending in the Courts at Sangrur. In these circumstances, the husband is seeking transfer of the petition under Section 125 Cr.P.C., from Family Court SAS Nagar, to the Courts at Sangrur, where the other litigation is already pending.

In the aforesaid three cases, no reply, as such, was filed by the concerned respondent(s). However, both the counsel for the wife, as well as the husband make statement that the contents of the rival cases filed by them, be considered as reply.

Learned counsel for the parties heard.

For the convenience of discussion, reference is made to the



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parties, as making appearance in TA-925-2023, which has been filed by Gurpreet Kaur-wife.

At the very outset, learned counsel for the applicant-wife has categorically stated that the respondent-husband, used to maltreat the applicant, while she was staying at matrimonial house and she was forced to leave the matrimonial house. As a result thereof, various litigation had started between the parties to the lis, on account of the matrimonial discord. She has submitted that the applicant is working as a Constable in NRI Wing, SAS Nagar and therefore, it is difficult for the applicant to defend the divorce petition, as well as the Guardianship petition, filed at the instance of the respondent-husband, in the Courts at Sangrur. Moreover, it is submitted that the daughter, Gurman Kaur, is studying in DPS School, SAS Nagar. Considering the same, it is submitted that the convenience of the applicant, who is a woman, as such, ought to be taken into consideration. As such, a prayer has been made by the counsel for the applicant, for transfer of both the divorce petition, as well as Guardianship petition, to the Courts at SAS Nagar.

On the other hand, learned counsel for the respondent-husband has refuted the claim of the applicant and submits that even, the trial relating to FIR bearing No.30 dated 23.04.2017, under Sections 406 and 498-A IPC, got lodged by the wife at Police Station Sadar, District Sangrur, is already pending in the Court of Chief Judicial Magistrate, Sangrur. Even, the petition under Section 25 of the Guardians and Wards Act, as well as the divorce petition, are already pending in the Courts at Sangrur. Since, the major litigation is already pending at Sangrur, therefore, the petition under



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Section 125 Cr.P.C., which is pending before Family Court, SAS Nagar, also be transferred to the Courts at Sangrur.

Furthermore, learned counsel submits that considering the applicant, to be working as Constable, she wields influence in the Police Department. As a result thereof, the respondent-husband feels that he shall not be able to properly defend the petition under Section 125 Cr.P.C., at SAS Nagar. In this regard, it is submitted that the applicant-wife, while taking advantage, of her being in Police Department, had got lodged a false FIR bearing No.127 dated 18.06.2018, under Section 473 IPC at Police Station Mataur, SAS Nagar, Mohali, against the respondent. However, the respondent-husband had knocked the door of this Court by way of filing CRM-M-30905-2018 and the said FIR, together with the subsequent proceedings, in pursuance of thereof, has been quashed vide order dated 17.04.2023 passed in the aforesaid petition.

No doubt, as submitted by the counsel for the applicant-wife, the convenience of the wife, as such, has to be taken into consideration, while considering the transfer of the petitions, arising from the matrimonial discord, but however, this is not a thumb rule. The circumstances, coming forth, from the material placed on record, at the instance of the husband, also has to be taken into consideration and thereupon, it has to be seen as to whether, in the fitness of circumstances, the transfer of the case is called for or not.

In this backdrop, considering the circumstances coming forth, it is pertinent to take into consideration that the applicant is an employee of the Police Department. Therefore, the exercise of influence by the applicant to



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cause harassment to the respondent, as such, cannot be ruled out, more particularly, considering the earlier FIR bearing No.127 dated 18.06.2018, under Section 473 IPC, got lodged by her at Police Station Mataur, SAS Nagar, Mohali, having been quashed by this Court, vide order dated 17.04.2023 passed in CRM-M-30905-2018. In the light of the same, exercise of influence, at the instance of the applicant, to watch her interest, in the petition under Section 125 Cr.P.C., as such, cannot be ruled out.

Simultaneously, it ought to be taken into consideration that the criminal case, filed at the instance of the applicant, is already pending in the Courts at Sangrur. Two cases, relating to which, even the wife has filed TA-925-2023 and TA-931-2023, are also pending at Sangrur. Once the criminal case is pending at Sangrur and the same is being pursued by the wife at Sangrur, the convenience of the parties, in the light of the chances there being of the applicant, exercising influence, at the place of her posting, has to be taken into consideration.

Considering the aforesaid facts and circumstances, TA-925-2023 and TA-931-2023, filed by the wife are hereby dismissed.

However, the petition i.e. CRM-M-13634-2022, filed at the instance of the husband, is hereby allowed and the petition filed under Section 125 Cr.P.C., i.e. MNT/17/2018, titled '*Gurpreet Kaur and another Vs. Jatinder Singh*', filed at the instance of the wife, stands transferred from from Family Court, SAS Nagar, to the Court of competent jurisdiction at Sangrur. The requisite record of the aforesaid divorce petition shall be transferred by the Family Court, SAS Nagar to District and Sessions Judge, Sangrur.



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Furthermore, watching the convenience of both the parties, a request is made to the District and Sessions Judge, Sangrur, to ensure that all the three cases, arising from the matrimonial discord between the parties, are preferably decided by the same Court. Thus, the District and Sessions Judge, Sangrur, shall assign all the cases to one Court, while taking into consideration the aforesaid fact.

Furthermore, learned Trial/Family Court concerned, shall make an endeavour to grant same date in all the three cases, so as to reduce the frequency of visits of the wife to Sangrur, in order to defend the litigation.

The parties are directed to appear before the Court concerned, within a period of one month from today onwards.

09.08.2024
Himanshu

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No