

TA-929-2023

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

Sr. No.102

TA-929-2023

Date of Decision: 23.09.2024

SHIKHA JUNEJA ALIAS ARORA**....Applicant****Versus****ANKIT ARORA****.....Respondent****CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI**

Present:- Mr. P.P.S. Doabia, Advocate
for the applicant.

Ms. Aarushi Garg, Advocate
for the respondent.

ARCHANA PURI, J. (Oral)

The applicant-wife has filed the present application for seeking transfer of the divorce petition, titled '*Ankit Arora Vs. Shikha Juneja*', filed by the respondent-husband, pending in the Family Court, Sonipat and she seeks transfer of the same to the Court of competent jurisdiction at Rohtak.

In pursuance of the notice issued, respondent made appearance through counsel and filed reply.

Learned counsel for the parties heard.

At the very outset, the counsel for the applicant submits that the marriage between the parties to the lis, had taken place in December, 2021 and one daughter was born from the said wedlock, who is presently in the care and custody of the respondent-husband. On account of the matrimonial

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discord, the parties are residing separate. Even, the applicant had got lodged an FIR bearing No.131 dated 14.05.2023, under Sections 34, 354, 376(2)(n), 377 and 498-A IPC and the same is pending trial, in the Courts at Rohtak. Also, it is submitted that even the petition under the Protection of Women from Domestic Violence Act has been filed by the applicant, which is also pending in the Courts at Rohtak. The applicant is working as a Lab Assistant, but however, her earnings are much less than that of the respondent. In the given circumstances, it is submitted that it is difficult for the applicant to commute a distance of about 60 kilometres, to defend the divorce petition, filed by the respondent-husband. As such, a prayer has been made for transfer of the divorce petition.

On the contrary, the counsel for the respondent has refuted the claim of the applicant. In fact, the counsel for the respondent submits that the applicant left the matrimonial house, at the time, when the daughter was about 2-3 months old. Further, it is submitted that the applicant is working as a Lab Assistant and she was commuting daily from Sonipat to Rohtak, during the period, when she stayed at the matrimonial house. Since the respondent is required to take care of the minor daughter, who is aged about 1 ½ years old, a prayer has been made for dismissal of the transfer application.

In view of the rival submissions made by the counsel for the parties, it is pertinent to mention that though, it is a settled position of law about weightage to be given to the convenience of the wife, in the transfer applications relating to the matrimonial disputes, but however, it is not a thumb rule. Various other circumstances, spelt out from the material coming forth, also ought to be taken into consideration. It is not disputed that when

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the applicant and respondent parted ways, the daughter was aged about 2-3 months old and the applicant had left the matrimonial home, without taking the daughter, who is presently in the custody of the respondent and is aged about 1 ½ years old. The respondent-husband is taking care of the child.

Also, it is not disputed between the parties that the applicant is working as a Lab Assistant and she was commuting from Sonipat to her workplace i.e. Rohtak, in routine, while she was staying in the matrimonial house. Given the same, when the applicant could commute, such a distance daily, to follow her job pursuit and considering the fact of the minor daughter being in the care and custody of the respondent-husband, it should not be difficult for the applicant to commute to Rohtak, as and when required to defend the divorce petition.

Consequently, no case is made out to transfer the divorce petition. Hence, the transfer application is hereby dismissed.

23.09.2024
Himanshu

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No