



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

TA-960-2023(O&M)
Date of Decision: December 04, 2024

Anu

...Applicant

Versus

Naren Rathee

...Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Ravinder Phogat, Advocate
for the applicant.

Mr.Sajjan Singh, Advocate
for the respondent.

ARCHANA PURI, J.

Invoking the powers under Section 24 CPC, the applicant-wife has filed the instant application for seeking transfer of the petition under Section 13(1) (ia) of the Hindu Marriage Act, titled 'Naren Rathee vs. Anu', filed by respondent-husband, which is pending in the Family Court, (Camp Court) Bahadurgarh, District Jhajjar, and she seeks transfer of the same to the Court of competent jurisdiction at Charkhi Dadri.

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

Learned counsel for the parties heard.

At the very outset, learned counsel for the applicant submits

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that the marriage had taken place between the parties to the lis on 29.11.2021. The marriage was performed with great pomp and show, in accordance with the demand of the respondent, his parents and relatives. However, the applicant was subjected to cruelty, at the instance of the respondent and his family members, as a result whereof, on 29.12.2021, she was forced to leave matrimonial house, along with her brother and since then, she is residing at her parental house.

Also, several requests were made for re-conciliation, but to no effect. Ultimately, the respondent filed a petition under Section 13(1) (ia) of the Hindu Marriage Act, for dissolution of marriage, which is pending in Courts at Bahadurgarh.

Further, it is submitted by learned counsel for the application that FIR No.69 dated 21.07.2023 under Sections 323, 376, 377, 406, 498-A, 509, 511 and 34 IPC, was got registered by the applicant with Women Police Station, Charkhi Dadri, which is pending before trial Court at Charkhi Dadri. Even, petition under Section 125 Cr.P.C. has been filed against the respondent by the applicant, which is also pending in Courts at Charkhi Dadri.

Furthermore, it is submitted by learned counsel for the applicant that father of the applicant had already died and mother is an illiterate woman and grand-father of the applicant is aged about 70 years and is suffering from various diseases. The applicant is an unemployed lady, who has no means for livelihood and is totally dependent upon her widow mother and aged grand-father. In these circumstances, being a lady, it is difficult for her



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to go alone to pursue the divorce petition, pending at Bahadurgarh, District Jhajjar, which is at a distance of about 100 kms. As such, a prayer has been made for transfer of the divorce petition from Bahadurgarh, District Jhajjar to Charkhi Dadri.

On the other hand, the respondent has refuted the claim of the applicant. In fact, while denying the averments made in the application, about the applicant having been subjected to cruelty, it is submitted by learned counsel for the respondent that applicant has concealed the material facts from the Court. She is an educated lady, having Masters' Degree in Chemistry and doing job at IGI Airport, New Delhi. She gets handsome salary from there. After leaving the matrimonial home, she has gone on various international and national trips and stayed in luxury hotels. In this regard, reference has been made to the various hotels, the detail whereof is mentioned at Sr.No.1 to 12, as detailed in paragraph No.9 of the reply.

Furthermore, even reference is made to foreign trips like Mauritius, Nepal, Thailand, Dubai and also trips, which relate to various places in different parts of India. In fact, it is submitted that while serving at IGI Airport, New Delhi, the applicant is leading luxurious and aristocratic life. She stays in Five Star Hotels and also goes on foreign trips. Further, it is submitted that the applicant is having full exposure to the outside world and is a confident girl, for whom, there is no requirement, as such, of any other person accompanying to Bahadurgarh, to pursue the divorce petition.

Also, it is asserted that distance between the Charkhi Dadri and Bahadurgarh is not 100 kms., whereas, it is only 75 kms. Besides the same,

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it is submitted by learned counsel for the respondent that mother of the respondent is having various medical ailments and respondent also is required to take care of his mother, as a result whereof, it shall be inconvenient for him to pursue the divorce petition, if so transferred, as pleaded by the applicant. As such, a prayer has been made for dismissal of the transfer application.

Exercising powers under Section 24 CPC is discretionary. It is always for the Court to find out from the averments made in the application, whether there is reasonable ground, made out for transfer of the case. No doubt, it is held by the Courts, time and again, that convenience of the wife, ought to be taken into consideration, in case of transfer application, relating to the matrimonial dispute, but however, it is not a thumb rule.

Adverting to the case in hand, it is pertinent to mention that though, there are allegations and counter allegations, with regard to the averments of cruelty, but however, this Court is keeping a conscious restraint, not to make reference to the same, as this question can be adjudicated in the divorce petition. However, for the purposes of disposal of the transfer application, it is pertinent to mention that in the application, it is categorical claim of the applicant that she is unemployed and has no source of earning. However, in the reply, it is coming forth that the applicant is working at IGI Airport, New Delhi. On query by the Court, learned counsel for the applicant submitted that the applicant was earlier working, but she is not now working at the Airport. On further query by the Court, no reason, as such, was assigned by learned counsel, for the applicant to leave the job.



Along with the reply, various photographs of the applicant were also annexed and same were admitted by learned counsel for the applicant, to be relating to the applicant. In these photographs, the applicant, seemingly is a confident girl, who is indulging in smoking and liquor and also, she is wielding weapons in several photographs. Suffice to make reference to Annexures R-2, R-3, R-12 etc. From the said photographs, it is evident that applicant is quite confident girl and in these circumstances, it cannot be assumed and presumed, that she will find difficulty in pursuing the litigation from distance of about 75 kms., from her place of residence.

Considering the same and also considering the medical record of mother of the respondent, coming forth, in the fitness of circumstances, while doing justice to both the sides, no case is made out for transfer of the divorce petition, as pleaded in the transfer application.

Hence, the present transfer application is hereby dismissed.

December 04, 2024
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No