



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.102

TA-1036-2021 (O&M)
Date of Decision: 14.10.2024

JYOTI SHARMA

....Applicant

Versus

JAGSIR SINGH

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Mr. Nitin Meel, Advocate
for the applicant.

Mr. Hitesh Verma, Advocate
for the respondent.

ARCHANA PURI, J. (Oral)

CM-15596-CIL-2024

Keeping in view the averments made in the application, same is
allowed.

Main case

The applicant-wife has filed the present application for seeking
transfer of the petition under Section 9 of the Hindu Marriage Act, titled
'Jagsir Singh Vs. Jyoti Sharma', filed by the respondent-husband, pending
in the Family Court Barnala and she seeks transfer of the same to the Court
of competent jurisdiction at Ferozepur.

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 had taken place between the parties to the lis, on 25.02.2021, but



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however, no child was born from the said wedlock. On account of the matrimonial discord, the parties are residing separate. The applicant had also filed the petition under Section 125 Cr.P.C., which has since been decided. Copy of the order passed in the petition under Section 125 Cr.P.C. is Annexure P-4, vide which the maintenance was fixed to the extent of Rs.2,500/- per month. Even though, the execution is pending, the respondent is not making any payment and an amount of Rs.94,000/- is due as arrears, on account of the order (Annexure P-4). Also further, it is submitted that the petition under Section 13 of the Hindu Marriage Act, filed by the applicant is pending in the Courts at Ferozepur. Moreover, it is submitted that even though, the applicant had filed an application for registration of FIR under Sections 406 and 498-A IPC, before the police authorities at Ferozepur, but no action has been initiated. Further, it is submitted that the applicant is not having any independent source of earning and is totally dependent upon her parents. As such, it is submitted that it is difficult for the applicant to defend the petition under Section 9 of the Hindu Marriage Act, from a distance of about 125 kilometres, from the place of her residence.

On the contrary, the counsel for the respondent, while making reference to the reply filed, submits that the respondent is not in a position to pay maintenance to the applicant. Even, no FIR has been registered against the respondent.

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.



Considering the aforesaid fact situation and also keeping in view the convenience of the wife to be taken into consideration, in the transfer applications relating to the matrimonial dispute, the application is hereby accepted and the petition under Section 9 of the Hindu Marriage Act, titled ‘*Jagsir Singh Vs. Jyoti Sharma*’, filed by the respondent-husband, stands transferred from the Family Court Barnala, to the Court of competent jurisdiction at Ferozepur. The requisite record of the aforesaid case be sent by the Family Court Barnala, to the District and Sessions Judge, Ferozepur.

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

14.10.2024
Himanshu

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No