



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.101

TA-971-2023

Date of Decision: 28.08.2024

POOJA

....Applicant

Versus

SHIV SHANKAR BABAL

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Mr. Amit Jain, Advocate
for the applicant.

Mr. Sanjay Verma, Advocate
for the respondent.

ARCHANA PURI, J. (Oral)

The applicant-wife has filed the present application for seeking transfer of the divorce petition i.e. HMA/330/2023, titled '*Shiv Shankar Babal Vs. Pooja*', filed at the instance of respondent-husband, pending in the Family Court Palwal, to the Court of competent jurisdiction at Gurugram.

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

Learned counsel for the parties heard.

At the very outset, learned counsel for the applicant submits that the marriage between the applicant and respondent, had taken place on 20.04.2022. However, after few months of the marriage, the conduct of the brother-in-law, as well as father-in-law of the applicant, was inappropriate, relating to which, she had got lodged an FIR bearing No.91 dated 16.03.2023, under Sections 323, 34, 354-A, 354-C and 506 IPC, at Police

Station Sector 9-A, Gurugram. The registration of this FIR, led to the sour



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relationship between the applicant and the respondent, as a result whereof, the respondent had filed the divorce petition against her.

Also, it is submitted by the counsel for the applicant that the applicant is residing at her parental place and has no independent source of earning. In these circumstances, it is submitted that it is difficult for the applicant to defend the divorce petition, from a distance of about 100 kilometres, from the place of her residence. As such, a prayer has been made for transfer of the case, pending at Family Court Palwal, to the Court of competent jurisdiction at Gurugram.

On the other hand, learned counsel for the respondent, while making reference to the contents of the reply, has assiduously submitted that even though, the FIR aforesaid was got registered by the applicant against her brother-in-law and father-in-law, but however, the same has since been cancelled. Even, Kalandra under Section 182 Cr.P.C. has been filed before the Court concerned. Also further, it is submitted that the applicant is having an illicit relationship with a boy, who is residing at Gurugram and this is the reason for breakup of the matrimonial relationship. Looking at this conduct of the applicant, which is reprehensible, it is submitted that no case is made out for transfer of the divorce petition, to the convenience of the applicant.

It is a settled position of law that in the matrimonial dispute, while considering the transfer application, the convenience of the wife ought to be taken into consideration. However, it is not thumb rule. Even though, the FIR got lodged by the applicant has been cancelled, but however, as to what is the status of the Kalandra, is yet to be adjudicated by the Court concerned. In fact, in the reply, it has been mentioned that the



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applicant is having an illicit relationship with a boy, but however, the accusations are quite vague. No name of the person concerned, as such, has been given. In fact, one photocopy of the photograph has been annexed as Annexure R-1 and it is submitted that the boy in the said photograph is the one, with whom the applicant is having illicit relationship. However, from the photograph, nothing as such, is evident, with regard to the illicit relationship, in the absence of any other material coming forth. Thus, these allegations are only to be adjudicated during the course of appraisal of evidence in the divorce petition.

Anyhow, considering the Palwal to be at a distance of about 100 kilometres from Gurugram, the distance itself, is sufficient to consider the convenience of the applicant, more importantly, when she is not having any source of earning. In the given circumstances, the present application, is hereby accepted and the the divorce petition i.e. HMA/330/2023, titled '*Shiv Shankar Babal Vs. Pooja*', filed at the instance of respondent-husband, stands transferred from Family Court Palwal, to the Court of competent jurisdiction at Gurugram. The requisite record of the aforesaid case be sent by Family Court Palwal, to the District and Sessions Judge, Gurugram.

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

28.08.2024

Himanshu

**(ARCHANA PURI)
JUDGE**

Whether speaking/reasoned : Yes

Whether reportable : Yes/No