



TA-1059-2023

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

Sr. No.102

TA-1059-2023

Date of Decision: 27.08.2024

MONIKA RANI AGGARWAL**....Applicant****Versus****LALIT SINGLA****.....Respondent****CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI**

Present:- Mr. Harsh Aggarwal, Advocate
for the applicant.

Mr. Parveen Kumar Garg, 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/383/2023, titled '*Lalit Singla Vs. Monika Rani Aggarwal*', filed at the instance of respondent-husband, pending in Family Court (Camp Court) Tohana, District Fatehabad, to the Court of competent jurisdiction at Sangrur.

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 has submitted that one son, born from the wedlock of the parties to the lis, who is aged about 5 years, is presently in the care and custody of the applicant. However, due to the matrimonial discord, the applicant together with the minor child was thrown out from the matrimonial home, by the respondent.



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Now, the applicant is residing at her parental place at Sangrur and she has no source of earning and is totally dependent upon her parents. In these circumstances, it is submitted that it is difficult for the applicant to defend the divorce petition, filed at the instance of the respondent-husband, from a distance of 75 kilometres, more particularly, while taking care of the minor child. As such, a prayer has been made for acceptance of the transfer application.

On the other hand, learned counsel for the respondent, while making reference to the reply, has resisted the claim for transfer of the divorce petition. He submits that the family of the applicant is a wealthy family and she is highly qualified and therefore, she should not be having any difficulty in pursuing the divorce petition at Tohana, from her parental place. Moreover, it is submitted by the counsel for the respondent that there is threat persisting to the respondent, at the instance of the applicant and her family, relating to which one incident had taken place earlier and application was filed before police authorities, copy whereof is Annexure R-1. As such, a prayer is made for dismissal of the application.

In view of the respective submissions made 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

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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.

In this backdrop, adverting to the case in hand, it is pertinent to mention that the child born from the wedlock, who is aged about 5 years, is in the care and custody of the applicant and is school-going child. The applicant is not having any independent source of earning and is dependent



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upon her parents. Even though, the applicant is stated to be a qualified person, but however, she is not working and the wealth of the parents, as such, cannot be considered to her convenience, to be able to pursue the divorce petition, at a distance of 75 kilometres from the place of her residence. So far as the threat extended to the respondent is concerned, along with the reply, copy of the application filed before the police authorities has been placed on record as Annexure R-1 and the same relates to some incident, which took place at Barnala.

On query by the Court, the counsel for the respondent was not able to disclose about the manner of taking place of the incident at a place, far away from the place of residence of the respondent. Moreover, even if the contents of the application (Annexure R-1), are taken to be correct, it was a chance meeting. On further query by the Court, the counsel for the respondent was not able to inform about the status of the application, even though, the same was filed more than one year ago. In the given circumstances, the plea of threat, having extended to the respondent, seems to be a vague one, which does not have much weight.

Keeping in view the case law, referred above and also considering the circumstances, as spelt out, the present application is hereby accepted and the divorce petition i.e. HMA/383/2023, titled '*Lalit Singla Vs. Monika Rani Aggarwal*', filed at the instance of respondent-husband, stands transferred from Family Court (Camp Court) Tohana, District Fatehabad, to the Court of competent jurisdiction at Sangrur. The requisite record of the aforesaid case be sent by Family Court (Camp Court) Tohana, District Fatehabad, to the District and Sessions Judge, Sangrur.

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

27.08.2024
Himanshu

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No