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

Sr. No.107

TA-1260-2022

Date of Decision: 25.09.2024

REENA**....Applicant****Versus****ANIL AND OTHERS****.....Respondents****CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI**

Present:- Mr. Virender Soni, Advocate
for the applicant.

Mr. Arjun Sheoran, Mr. Rohan Gupta and
Mr. Tejasvi Sheokhand, Advocates
for respondent No.1 (sole contesting respondent).

Mr. L.K. Narang, Advocate
for proforma respondent No.4.

ARCHANA PURI, J. (Oral)

The applicant-wife has filed the present application for seeking transfer of the petition under Section 13 of the Hindu Marriage Act i.e. DMC/48/2022, titled '*Anil Vs. Reena*', filed by respondent No.1-husband, pending in the Family Court, Meham and she seeks transfer of the same to the Court of competent jurisdiction at Gohana, District Sonapat.

In pursuance of the notice issued, contesting respondent No.1 made appearance through counsel and filed reply. Even, proforma respondent No.4 has made appearance through counsel.

Learned counsel for the parties heard.

At the very outset, it is submitted by the counsel for the applicant that the marriage had taken place between the parties to the lis on 08.09.2013. However, due to the matrimonial discord, the parties are

residing separate. Two sons born on 17.08.2014 and 21.01.2016, are in the care and custody of respondent No.1-husband. It is submitted that the applicant has filed complaint, for registration of FIR under Section 498-A IPC, at concerned Police Station in Gohana and the same is pending investigation. The applicant has also filed the petition under Section 125 Cr.P.C. and the petition under Section 12 of the Protection of Women from Domestic Violence Act, which are pending in the Courts at Gohana, District Sonapat. It is submitted that the applicant has also filed the petition for seeking custody of the children, which is pending in the Courts at Gohana, District Sonapat.

Also, it is submitted that the applicant is a housewife and does not have any source of earning. In these circumstances, it is difficult for the applicant to commute a distance of about 50 kilometres, to defend the divorce petition, pending in the Courts at Meham, District Rohtak.

On the contrary, the counsel for contesting respondent No.1 has refuted the claim for transfer of the divorce petition. Rather, while making reference to the reply, it is submitted that both the children, who are in the age group of 8-9 years and students of 2nd and 3rd Class, are in the care and custody of respondent No.1-husband. In the given circumstances, it shall become difficult for the respondent to take care of the children, in the eventuality of the divorce petition being transferred from Meham to Gohana. Also, it is submitted that the applicant is indulging into multiple love affairs, as a result whereof, respondent No.1 has threat to his life, at the instance of lover of the applicant.

In view of the rival submissions made by the counsel for the parties, it is pertinent to mention that time and again, the Courts have held

that weightage ought to be given to the convenience of the wife in the transfer applications, relating to the matrimonial dispute.

Now, adverting to the case in hand, it is pertinent to mention that both the children are in the custody of the respondent-husband, but they are school-going and are of the age group of 8-9 years. The applicant has already filed the petition, for seeking custody of the children and the same is pending in the Courts at Gohana. However, the counsel for respondent No.1 has also alleged that respondent No.1-husband, is having threat to his life, at the behest of the lover of the applicant, but however, on query, he was not able to state about the manner, in which such threat is apprehended. Furthermore, on query, the counsel for respondent No.1 has stated that no such application, to seek protection of the life and liberty of respondent No.1, had been filed before any police authority. On further query, it is disclosed by the counsel for respondent No.1 that apart from respondent No.1, there are parents in his house and the children are residing with them. In the given circumstances, when the parents of respondent No.1 are there to look after the children, it shall not be difficult for him to pursue the divorce petition, if so transferred from Meham, District Rohtak, to the Courts at Gohana, District Sonapat.

Considering the aforesaid fact situation and also considering the fact that the petition under Section 125 Cr.P.C. and the petition under Section 12 of the Protection of Women from Domestic Violence Act are pending in the Courts at Gohana and the complaint for registration of FIR under Section 498-A IPC is pending with the police authorities, Gohana, the application is hereby accepted and the petition under Section 13 of the Hindu Marriage Act i.e. DMC/48/2022, titled '*Anil Vs. Reena*', filed by

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respondent No.1-husband, stands transferred from the Family Court, Meham, to the Court of competent jurisdiction at Gohana, District Sonapat. The requisite record of the aforesaid case be sent by the Family Court, Meham, to the District and Sessions Judge, Sonapat.

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

25.09.2024
Himanshu

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No