



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

Sr. No.117

TA-1026-2024

Date of Decision: 16.12.2024

SAPNA

....Applicant

Versus

RAHUL

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Mr. Rajesh Sharma, Advocate
for the applicant.

Mr. Parmod Kumar, Legal Aid Counsel
for the respondent.

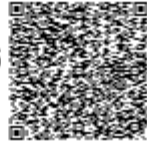
ARCHANA PURI, J. (Oral)

The applicant-wife has filed the present application for seeking transfer of the petition under Section 13 of the Hindu Marriage Act i.e. HMA/265/2024, titled '*Rahul Vs. Sapna*', filed by the respondent-husband, pending in the Family Court, Faridabad and she seeks transfer of the same to the Court of competent jurisdiction at Bhiwani.

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

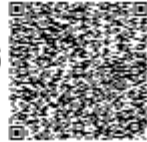
Learned counsel for the parties heard.

At the very outset, the counsel for the applicant submits that the marriage between the parties to the lis, had taken place on 17.02.2016. However, after 1½ month of the marriage, the applicant unfortunately met with an accident and her left hand became disabled, due to the severe injury and finally on 09.09.2017, the applicant was turned out of the house and since then, she is residing with her parental family at Bhiwani.



Also, it is submitted that the applicant has already filed the petition under Section 12 of the Protection of Women from Domestic Violence Act and the same is pending in the Courts at Biwani. The applicant had also filed the petition under Section 125 Cr.P.C. at Bhiwani and the same was disposed of. However, the execution for recovery of the outstanding amount, is still pending in the Courts at Bhiwani. Furthermore, it is submitted that the respondent-husband had also filed the petition under Section 9 of the Hindu Marriage Act at Faridabad, which was later on transferred to the Courts at Bhiwani and thereafter, the said petition was withdrawn. Also, the respondent had filed the transfer application, for seeking transfer of the petition under Section 125 Cr.P.C., which was dismissed by this Court and then, he knocked the door of Hon'ble Supreme Court and his petition before Hon'ble Supreme Court was dismissed vide order dated 13.11.2018, copy whereof is Annexure P-5. As such, it is submitted that it is difficult for the applicant, who has no source of earning, to commute a distance of about 158 kilometres, to defend the divorce petition.

However, the counsel for the respondent has refuted the claim of the applicant, as he submits that the applicant is in a better position. Rather, the respondent is physically handicapped. In this regard, the counsel has made reference to the disability certificate (Annexure R-1), wherein it is stated that the respondent is a case of "*Visual Impairment*" and he has been diagnosed as a case of "*Both Eye Rod-Cone Dystrophy*" and the disability is to the extent of 100%. In these circumstances, it is submitted that it is difficult for the respondent to pursue the divorce petition, if so transferred to Bhiwani.



In the light of the aforesaid submission, further, the counsel for the applicant submits that the applicant is a Youtuber and earning a lot while making 'Reels'. He has sufficient source of earning, which may facilitate his commuting to Bhiwani, to pursue the divorce petition. Also, it is submitted that the respondent is a Teacher in Kendriya Vidyalaya, Faridabad.

From the aforesaid fact situation, it is evident that the respondent is a case of "*Visual Impairment*" and his disability is 100%. Even though, the fact of his being Teacher in Kendriya Vidyalaya, Faridabad, as such, has not been disputed but, however, the fact remains that the respondent is 100% disabled and in these circumstances, it shall be difficult for him also, to physically move to a place at a distance of about 158 kilometres, to pursue the divorce petition. At the same time, the convenience of the wife also ought to be taken into consideration. Though, the applicant-wife is stated to be disabled, but however, there is no disability certificate, as such, coming on record.

In view of the aforesaid fact situation, taking into consideration the convenience of both the applicant, as well as the respondent, who is 100% disabled, in the fitness of circumstances, it shall be appropriate, if the divorce petition is transferred to any place falling in between Faridabad and Bhiwani, to which the counsel for the parties have also agreed.

In the light of the aforesaid, the transfer application is partly allowed and the petition under Section 13 of the Hindu Marriage Act i.e. HMA/265/2024, titled '*Rahul Vs. Sapna*', stands transferred from the Family Court Faridabad, to the Courts at District Jhajjar. The requisite record of the aforesaid case be sent by the Family Court, Faridabad, to the District and



Sessions Judge, Jhajjar.

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

16.12.2024
Himanshu

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No