



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.106

TA-1242-2023

Date of Decision: 27.09.2024

HIMANI

....Applicant

Versus

SANDEEP KUMAR

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Mr. Vimal Kumar Gupta and Ms. Palkin Bhardwaj, Advocates
for the applicant.

Mr. Atul Yadav, Advocate
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. DMC/359/2023, titled '*Sandeep Kumar Vs. Himani*', filed by the respondent-husband, pending in the Family Court, Rewari and she seeks transfer of the same to the Court of competent jurisdiction at Gurugram.

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 has submitted that the applicant is having no source of earning and is totally dependent upon her parents. No child was born from the wedlock of the parties to the lis. However, there is matrimonial dispute between the parties, as a result whereof, the applicant has got lodged an FIR bearing No.30 dated 19.05.2023, under Section 323, 406, 498-A and 506 IPC, at Police Station



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Gurugram. The trial relating to the said FIR is pending in the Courts at Gurugram. Besides the same, also it is submitted that the petition under Section 12 of the Protection of Women from Domestic Violence Act, has also been filed, which is also pending in the Courts at Gurugram and in the said petition, interim maintenance was fixed by the Court. Being aggrieved by the same, rival appeals have been filed by both the applicant and the respondent and the same are pending in the Courts at Gurugram. In the given circumstances, a prayer has been made for acceptance of the transfer application.

On the contrary, the counsel for the respondent, while making reference to the reply filed and the documents annexed thereto, has assiduously submitted that there is concealment of the material fact, at the instance of the applicant. Even though, she has asserted about herself to be having no source of income and totally dependent upon her parents, but however, she is working in a private firm, relating to which, an affidavit was filed of assets and liabilities by the applicant, before the Court dealing with the petition filed under the Protection of Women from Domestic Violence Act, copy whereof is Annexure R-8.

In view of the submissions aforesaid, it is pertinent to mention that, though, it is a settled position of law about weightage to be given to the convenience of the wife, in the eventuality of the transfer applications filed arising from the matrimonial dispute, but however, it is not a thumb rule. Various other circumstances spelt out, ought to be taken into consideration. In the case in hand, the applicant has made false assertion about herself to be having no source of earning. Rather, perusal of the copy of the affidavit filed before the Court, where the petition under Section 12 of the Protection



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of Women from Domestic Violence Act is pending, reveals that the applicant was pursuing MBA, at the time of filing of the said affidavit and therein, also there is mention made at page No.3 of the affidavit, that the applicant is working as Senior Customer Care Executive and her monthly earnings are Rs.22,000/-. This fact of vocation followed by the applicant and the extent of her earnings has been concealed by the applicant.

In the given circumstances, there is concealment of a material fact, which ought to have bearing on the decision of the transfer application. Considering the conduct of the applicant, no case is made out for allowing the application.

Hence, the transfer application is hereby dismissed.

27.09.2024
Himanshu

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No