



IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

Sr. No.212

TA-1333-2022  
Date of Decision: 01.08.2024

TANU @ TANISHA

....Applicant

Versus

MOHIT BANSAL

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Mr. Naveen Bawa, Advocate  
for the applicant.

Mr. Naveen Gupta, Advocate  
for the respondent.

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ARCHANA PURI, J. (Oral)

Mr. Naveen Bawa, Advocate, has made appearance on behalf of  
the appellant and filed Power of Attorney, which is taken on record.

The applicant-wife has filed the present application for seeking  
transfer of the divorce petition i.e. HMA/603/2018, titled '*Mohit Bansal Vs.  
Tanu @ Tanisha*', filed at the instance of respondent-husband, pending in  
Family Court Jagadhri, District Yamunanagar, to the Court of competent  
jurisdiction at Ludhiana.

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

Learned counsel for the parties heard.



It is submitted by learned counsel for the applicant that the marriage between the parties to the lis had taken place on 05.05.2011 at Ludhiana, but however, no child was born from this wedlock. However, due to matrimonial discord, they are residing separate. The applicant is residing with her parents at Ludhiana and she is taking care of her aged parents, who have no source of earnings. The father of the applicant is also stated to be suffering from heart disease and undergoing treatment from Hospital at Dayanand Medical College & Hospital, Ludhiana. It is further submitted that the brother of the applicant is doing service at Gurugram and as such, there is no other male member to accompany the applicant to defend the divorce petition. Also, it is submitted that the distance between Jagadhri and Ludhiana is 165 kilometres. As such, a prayer has been made for transfer of the case, pending at Family Court (Camp Court) Jagadhri, District Yamunanagar, to the Court of competent jurisdiction at Ludhiana.

On the other hand, learned counsel for the respondent-husband has submitted that the applicant is a graduate and she is working in a reputed pharma company at Ludhiana and earning handsome amount. The present application has been filed, solely on account of misuse of the provision of law, for seeking transfer of the case. In this regard, learned counsel for the respondent has placed reliance upon the judgment passed by Hon'ble Supreme Court in the matter of '*Anindita Das Vs. Srijit Das*' (2006) 9 SCC 197 and '*Delma Lubna Coelho Vs. Edmond Clint Fernandes*' 2023 SCC Online SC 440, to emphasize that the instant application is solely a misuse of the provision of law. As such, he makes a prayer for dismissal of the application.

In view of the respective submissions, made by learned



counsel for the parties, 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 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.

Even though, in the case law, cited by learned counsel for the respondent, the transfer applications were dismissed, but however, this was so done, while taking into consideration the factual position existing in the case under consideration. However, it is not mandatory to make observation that all transfer applications are the misuse of the provision of law. Rather, in Anindita Das's case (supra), it was observed by Hon'ble Supreme Court that may be this leniency was being misused by the women, but however, it was further observed that each and every case has to be considered, on its own merits.

Now, reverting to the case in hand, it is pertinent to mention that the distance of the place, where the divorce petition has been filed, is at a distance of 165 kilometres. This distance in itself, is a major ground for the applicant to seek transfer of the case, more particularly, when she is looking after the aged parents, while her brother is settled in Gurugram.

Taking into consideration the aforesaid circumstances, without prejudice to the rights of the parties to be adjudicated on merits, the application, as such, is hereby accepted and the divorce petition i.e. HMA/603/2018, titled '*Mohit Bansal Vs. Tanu @ Tanisha*', filed at the instance of respondent-husband, stands transferred from the Family Court (Camp Court) Jagadhri, District Yamunanagar, to the Court of competent jurisdiction at Ludhiana. The requisite record of the aforesaid divorce petition shall be transferred by the Family Court (Camp Court) Jagadhri, District Yamunanagar, to District and Sessions Judge, Ludhiana.



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

01.08.2024  
Himanshu

(ARCHANA PURI)  
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No