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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-48592-2024

Date of decision: 26.09.2024

Sachin Sharma

...Petitioner

Versus

Hiteshi Sharma

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. Naveen S. Attri, Advocate
for the petitioner.**HARPREET SINGH BRAR, J. (ORAL)**

1. The present petition has been filed under Section 447 of Bharatiya Nagarik Suraksha Sanhita, 2023 for transferring the case filed by the respondent under Section 125 of Cr.P.C. pending in the Court of learned Principal Judge, Family Court (Camp Court), Khamanon, District Fatehgarh Sahib to any other Court of competent jurisdiction at District SAS Nagar (Mohali).

2. Learned counsel for the petitioner *inter alia* contends that the marriage between the petitioner and the respondent was solemnized on 05.02.2022 and out of this wedlock, no child was born. Thereafter, the respondent has lived for 12 days in the matrimonial home and thereafter, went to her parental home. The petitioner tried to bring her back but she started abnormal scene without any reason and said that she has married against her wishes to please her parents and stayed for three months at her parental home. Thereafter, when she came back to petitioner's house, the petitioner came to know that she is suffering from mental problem (Schizoaffective disorder) since



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her childhood and he took her in Narain Hospital, Ambala City on 15.06.2022 for her treatment and on 23.06.2022, she again went to her parental house. He further submits that the petitioner has filed a petition under Section 13(1)(i-a) of Hindu Marriage Act, 1955 for grant of decree of divorce by dissolving the marriage with the respondent. Thereafter the respondent filed false complaint against the petitioner just to harass him and thereafter, filed petition under Section 125 Cr.P.C. before the learned Family Court, Khamanon, District Fatehgarh Sahib, whereas, the respondent is now residing with her parents at village Bagho Majra, Tehsil and District Mohali. To attend the proceedings at Family Court, Khamanon, District Fatehgarh Sahib, he has to travel 35 km approximately and it would affect his livelihood.

3. Having heard learned counsel for the petitioner and in view of the of the limited prayer made by counsel for the petitioner, this Court is deciding the case in limine without issuing notice to the respondent, in order to save litigation cost of the respondent and judicial time of the Court.

4. A two Judge Bench of the Hon'ble Supreme Court dealt with power of the Court to transfer proceedings under Sections 24 and 25 of the Civil Procedure Code in ***Kulwinder Kaur @ Kulwinder Gurcharan Singh Vs. Kandi Friends Education Trust, AIR 2008 SC 1333***, wherein it was held that the power to make such transfers is discretionary in nature and hence, it would be unwise to attempt to shackle it with a blanket formula uniformly applicable to all situations. However, it cannot be denied that the power must be used with abundance of care and caution.



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5. Furthermore, distance from Khamanon, District Fatehgarh Sahib to SAS Nagar Mohali is 35 km and, therefore, it would cause undue hardship to the petitioner.

6. The present petition is disposed of with the following directions:-

- (a) In case, the petitioner moves an appropriate application for joining the trial through Video Conferencing/Hybrid mode, the same shall be considered and decided in accordance with High Court Rules framed in this regard as well as the judgment rendered by this Court in *Sukhmanjit Singh Dhindsa vs. State of Punjab and others 2024(1) R.C.R.(Criminal) 636*.

7. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

(HARPREET SINGH BRAR)
JUDGE

26.09.2024

Neha

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No