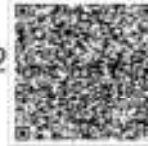


2024:PHHC:073072



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

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CRM-M-54273-2022 (O&M)
Date of decision : 22.05.2024

Inderjit Singh**...Petitioner****Versus****State of Haryana and another****...Respondents****CORAM:- HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Ram Bilas Gupta, Advocate and
Ms. Hema Kakkar, Advocate (Legal Aid Counsel)
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

None for respondent No. 2.

MANISHA BATRA, J. (Oral)

1. Prayer in this petition, filed under Section 407 of Cr.P.C., is for transferring the trial/case arising out of FIR No. 274 dated 29.07.2021, registered under Sections 323, 498-A, 509, 511, 376, 377, 354-A and 34 of IPC at Police Station City Dabwali, District Sirsa, which is pending before the Court of learned Additional Sessions Judge, Sirsa to the competent Court of jurisdiction at Bathinda.

2. Brief facts of the case relevant for the purpose of disposal of the present petition are that the petitioner and respondent No. 2 had performed a love marriage on 24.02.2021 as per Hindu rites and rituals. However, later on, with the consent of the parents of both the parties, their marriage was

again solemnized on 07.03.2021 as per Sikh rites and rituals. Subsequently, a matrimonial discord arose between the parties concerned, consequent to which, respondent No. 2 started residing with her parents at Dabwali, where she had got lodged the aforesaid FIR. The trial arising out of the said FIR is pending before the Court of learned Additional Sessions Judge, Sirsa. However, the petitioner is seeking transfer of the case to the competent Court of jurisdiction at Bathinda.

2. Learned counsel for the petitioner submits that the petitioner and his family members have been falsely implicated in this case. The respondent-wife had herself left the matrimonial house without there being any reason. It is submitted that the petitioner is doing LLB from the regional campus of Guru Nanak Dev University, Amritsar, situated at Jalandhar. He has been disowned by his parents and has no source of income. It is also submitted that since the distance between Jalandhar to Dabwali (Sirsa) is around 250 kms and he is having great difficulties to attend the proceedings of the case before the Court at Sirsa for the reasons as stated above. He has submitted that in the event of transferring the aforesaid case to a competent Court at Bathinda, it will be convenient to both the parties. Hence, it is urged that the present petition deserves to be allowed and the cases in question deserves to be transferred to competent Court at Bathinda.

3. Though today, there is no representation on behalf of the respondent/wife, however, a perusal of the record shows that written statement has been filed on behalf of her. A perusal of the same shows that she has vehemently opposed the prayer of the petitioner by submitting that the parents of the petitioner are very influential persons and she feels danger to her life and liberty at Bathinda. It is also submitted that it was the second

marriage of the petitioner as earlier he was married with one Navneet Kaur, who was also subjected by them to cruelty and harassment. It is further submitted that the petitioner is maintaining her minor son, aged about 16 months, as well as herself. She has filed a petition under Section 125 of Cr.P.C. at Dabwali seeking maintenance from the petitioner but he is not appearing in those proceedings. It is, therefore, urged that the present petition is liable to be dismissed.

5. I have heard learned counsel for the petitioners at considerable length and have also gone through the material placed on record.

6. On a careful perusal of the present petition as well as on considering the contentions as raised by learned counsel for the petitioners, I am of the considered opinion that no case is made out to transfer the aforesaid case to the competent Court of jurisdiction at Bathinda as prayed by the petitioner. It is well settled proposition of law 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 behavioral 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. Reliance in this regard can be placed upon *N.C.V. Aishwarya vs. A.S. Saravana Karthik Sha : 2022 Live Law (SC) 627*. It is also well settled that while considering the transfer of a matrimonial dispute/case, the Court is to consider family condition of the wife, custody of the minor child, economic condition of the

wife, her physical health and earning capacity of the husband and most important, convenience of the wife i.e. she cannot travel alone without assistance of a male member of her family, connectivity of the place 'to and fro' from her place of residence as well as bearing of the litigation charges and travelling expenses.

7. In the present case, the respondent-wife is admittedly residing with her parents at Sirsa and has got registered the aforesaid FIR at Police Station City Dabwali, the trial of which is pending before the Court of learned Additional Sessions Judge, Sirsa. She has also filed a petition under Section 125 Cr.P.C. at Dabwali seeking maintenance for her minor son as well as herself but the petitioner is not appearing in those proceedings. In para No. 2 of this petition, the petitioner has concealed the factum of having a child out of the wedlock by stating that 'no child was born to the respondent No. 2 from the loins of the petitioner'. However, the respondent-wife has categorically stated in the written statement that a child was born out of their alliance and now he is aged about 16 months. She has pleaded to have no independent source of income and to be living at the mercy of her parents. They must have been living with minimum resources. Apparently, the balance of convenience goes in favour of the respondent-wife as after allegedly being thrown out of her matrimonial house, she along with her minor child is residing at Sirsa with her parents. She must be fighting against several odds and challenges apart from contesting the aforesaid case for maintenance of her minor son and herself. The distance between Sirsa and Bathinda is about 50 Kms. and this Court finds no reason to make the respondent to travel that much distance for attending her case at Bathinda, as she has also to take care of her minor son. More so, the petition filed by her

under Section 125 of Cr.P.C. is already pending adjudication at Dabwali.

8. In view of the discussion made above and also in view of the ratio of law as laid down in the aforecited judgments, but without making any comment on the merits of the case, the present petition is dismissed.

22.05.2024
Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes