



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.102

TA-1600-2022

Date of Decision: 12.09.2024

VAISHALI

....Applicant

Versus

NAVEEN KUMAR

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Mr. Sunil Bhardwaj, Advocate, for
Mr. Deepak Vashishth, Advocate
for the applicant.

Mr. Vikrant Rana, 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. HMA/1031/2022, titled '*Naveen Kumar Vs. Vaishali*', filed by the respondent-husband, pending in Family Court Gurugram and she seeks transfer of the same to the Court of competent jurisdiction at Jind.

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

Learned counsel for the parties heard.

At the very outset, it is submitted by the counsel for the applicant that the marriage of the parties to the lis had taken place on 30.11.2020, but no child was born from the said wedlock. However, on the account of the matrimonial discord, the parties are residing separate. The applicant is residing at Jind, with her parental family. She is a housewife



and has no independent source of earning.

Even, it is submitted by the counsel that the applicant got lodged an FIR bearing No.49 dated 02.05.2023, under Sections 323, 34, 354-B, 377, 406, 498-A and 506 IPC, at Women Police Station, Jind, in which challan has been presented and trial is pending adjudication in the Courts at Jind. The respondent is making appearance, as accused, in the aforesaid trial. Also, it is submitted that Gurugram is at a distance of 150 kilometres from the place of residence of the applicant. As such, it is difficult for the applicant to commute such a long distance to defend the divorce petition.

On the contrary, the counsel for the respondent, while making reference to the contents of the reply, has submitted that the applicant is a well-educated lady and she can commute such distance to defend the divorce petition, as she was working prior to her marriage and is also, at present, indulging in business of designing and stitching. Also, it is submitted that there was a threat extended to the respondent, at the behest of the applicant and her family members, when the respondent had gone to attend the proceedings at Women Cell, Jind.

However, on query by the Court, it is disclosed that no complaint was filed by the respondent, before any superior authority, with regard to the threat alleged by extended by the applicant.

In view of the rival submissions aforesaid, 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.

Adverting to the case in hand, it is pertinent to mention that



weightage has to be given to the convenience of the wife, while dealing with the transfer applications, relating to the matrimonial dispute. Considering the same, taking into consideration the distance between the two places to be about 150 kilometres and also considering the respondent to be making appearance in the trial, in the Courts at Jind, the application is hereby accepted and the petition under Section 13 of the Hindu Marriage Act i.e. HMA/1031/2022, titled '*Naveen Kumar Vs. Vaishali*', filed by the respondent-husband, stands transferred from Family Court Gurugram, to the Court of competent jurisdiction at Jind. The requisite record of the aforesaid case be sent by the Family Court Gurugram, to the District and Sessions Judge, Jind.

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

12.09.2024
Himanshu

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No