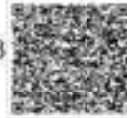


2024:PHHC:064413



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

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CRM-M-60860-2023 (O&M)
Date of decision : 09.05.2024

Chisty**...Petitioner****Versus****Madhu Kataria****...Respondent****CORAM:- HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Mohit Shukla, Advocate
for the petitioner.

Dr. Rau P. S. Girwar, Advocate
for the respondent.

MANISHA BATRA, J. (Oral)

1. Prayer in this petition, filed under Section 407 read with Section 482 of the Code of Criminal Procedure, is for transferring the complaint filed by the respondent under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (*for short 'DV Act'*), titled as ***Madhu Katraria vs. Chisty and others***, from the Court of learned Judicial Magistrate First Class, Bathinda to the competent Court of jurisdiction at Patiala.

2. Brief facts of the case relevant for the purpose of disposal of the present petition are that the marriage of the petitioner was performed with the son of the respondent in the year 2018. One female child was born out of the wedlock, who is aged about 02 years now. However, a matrimonial

discord arose between the parties and the petitioner along with her minor daughter had been residing at her parental house at Patiala since 2021. The respondent, who is mother-in-law of the petitioner, has filed the aforesaid complaint under the provisions of the DV Act, which is pending before the Court of learned Judicial Magistrate First Class, Bathina. By way of filing the present petition, the petitioner is seeking transfer of the aforesaid complaint from Bathinda to the competent Court of jurisdiction at Patiala.

3. Learned counsel for the petitioner has argued that after having being thrown out of her matrimonial house, the petitioner has filed a petition under Section 125 of Cr.P.C. as well as a complaint under the DV Act, which are pending before the Courts concerned at Patiala. The petitioner has also got registered an FIR bearing No. 98 dated 23.12.2021, under Sections 406 and 498-A of IPC at Police Station Women, District Patiala against the respondent and her son. He has further argued that the husband of the petitioner had filed a divorce petition before the Family Court, Bathinda. However, the petitioner filed a petition before this Court, bearing **TA-848-2023**, seeking transfer of the said petition to the competent Court at Patiala and vide order dated 03.10.2023, passed by this Court, the said divorce petition has been ordered to be transferred to the competent Court at Patiala. It is argued that the petitioner along with her minor daughter is residing at her parental house at Patiala. There is a distance of about 155 kms. between Bathinda and Patiala and since the petitioner has also to take care of her minor daughter, it is very difficult for her to pursue the aforesaid complaint at Bathinda. 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 Patiala.

4. On the other hand, learned counsel for the respondent, in terms of the reply, which is available on record, has argued that the respondent is an old lady, aged about 61 years. The petitioner was married with the son of the respondent. She is a quarrelsome lady and has subjected her husband as well as the respondent to cruelty by extending beatings to them. She had voluntarily left the matrimonial house. The petitioner has falsely implicated the respondent and her son in the aforesaid FIR. It is further submitting that in the eventuality of the aforesaid complaint being transferred to Patiala, the respondent will be facing great difficulties in pursuing the said case. Hence, it is urged that the present petition is liable to be dismissed.

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

6. On a careful perusal of the present petitions as well as on considering the contentions as raised by learned counsel for the parties, I am of the considered opinion that the aforesaid complaint is required to be transferred to the competent Court of jurisdiction at Patiala. 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 socioeconomic 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

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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 petitioner has been residing at her parental house at Patiala along with her daughter since 2021. Three litigations, filed by the petitioner, are already pending before the Courts at Patiala. More so, the divorce petition filed by her husband, who is son of the respondent, has also been ordered to be transferred to Patiala as mentioned above. Apparently, the balance of convenience goes in favour of the petitioner as after allegedly being thrown out of her matrimonial house, she along with her minor daughter is residing at Patiala with her parents. She must be fighting against several odds and challenges apart from contesting the aforesaid cases for maintenance of her minor daughter and herself. The distance between Patiala and Bathinda is about 155 Kms. and this Court finds no reason to make the petitioner to travel that much distance for attending her case at Bathinda, as she has also to take care of her minor daughter, especially when they are living with minimum resources. Mere fact that the respondent is also a lady cannot be a sufficient ground to decline the prayer of the petitioner as she must be well supported by her son. Moreover, the plea of the respondent that she would be having difficulty in pursuing the aforesaid case at Patiala cannot be stated to be sufficient ground

for dismissing the present petition as obviously she does not need to appear before the Court on each and every date and can be very well represented through a counsel.

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 allowed. The complaint filed by the respondent under Section 12 of the Protection of the DV Act, titled as *Madhu Katraria vs. Chisty and others*, pending before the Court of learned Judicial Magistrate First Class, Bathinda is ordered to be transferred to the competent Court of jurisdiction at Patiala. The District & Sessions Judge, Patiala will assign the said case to the competent Court of jurisdiction. The Court at Bathinda is directed to transfer all the record pertaining to the aforesaid case to District & Sessions Judge, Patiala. The parties are directed to appear before the trial Court at Patiala within a period of 01 month from today.

09.05.2024
Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No