



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

Sr. No.202

TA-20-2025

Date of Decision: 03.07.2025

MUSKAN JAIN

....Applicant

Versus

SARTHIK JAIN

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Mr. Abhishek Sharma, Advocate
for the applicant.

Mr. Achin Gupta and Mr. Karan Bansal, Advocates
for the respondent.

ARCHANA PURI, J. (Oral)

The applicant-wife has filed the present application for seeking transfer of the petition under Section 9 of the Hindu Marriage Act i.e. HMA/314/2024, titled '*Sarthik Jain Vs. Muskan Jain*', filed by the respondent-husband, pending in the Family Court, Faridkot and she seeks transfer of the same to the Court of competent jurisdiction at Ludhiana.

Upon notice issued, the respondent made appearance through counsel and filed reply.

The counsel for the parties heard.

At the very outset, it is submitted by the counsel for the applicant that the marriage between the parties to the lis, had taken place on 30.09.2019. One son was born from the said wedlock, who is about 5 years old. On account of the matrimonial dispute, the parties are residing separate. The son born from the wedlock, has been forcibly taken by the respondent, from the custody of the applicant, as a result whereof, she has filed the



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guardianship petition i.e. GW/246/2024, which is pending in the Courts at Ludhiana.

Also, it is submitted by the counsel for the applicant that the applicant is not working and as such, has no independent source of earning. She is dependent upon her parental family. Even, she has filed the petition under Section 144 of the Bharatiya Nagarik Suraksha Sanhita, 2023 i.e. MNT-125/842/2024, which is also pending in the Courts at Ludhiana. Besides the same, she has also filed the divorce petition i.e. HMA/13113/2024 and the complaint under Section 12 of the Protection of Women from Domestic Violence Act i.e. COMA/48475/2024, which are also pending in the Courts at Ludhiana. It is submitted that the respondent is pursuing the litigation, already pending in the Courts at Ludhiana.

In the given circumstances, it is submitted that when the applicant is not having any source of earning, it is difficult for her to commute a distance of about 120 kilometres, to defend the petition under Section 9 of the Hindu Marriage Act.

On the contrary, the counsel for the respondent, while making reference to the reply, submits that the minor child is in the custody of the respondent.

On query by the Court, it is submitted by the counsel for the respondent that parents of the respondent are also residing with him.

In view of the submissions aforesaid, it is pertinent to mention that generally, the Courts lean towards convenience of the wife, while considering the transfer applications, relating to the matrimonial disputes. Even though, it is not a thumb rule, but however, various other circumstances surfaced from the material brought on record, ought to be



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taken into consideration. In the case in hand, the applicant is not having any source of earning. The child born from the wedlock of the parties is also stated to be forcibly retained by the respondent-father and litigation on this account, has also been initiated at the instance of the applicant, which is pending in the Courts at Ludhiana. Besides the same, number of other cases relating to the matrimonial dispute, as mentioned aforesaid, are already pending in the Courts at Ludhiana, wherein the respondent is making appearance. Also, the parents of the respondent are living with him, who can very well take care of the child, while he pursues the litigation.

In view of the aforesaid fact situation, it is just and expedient to accept the application. Hence, the transfer application is allowed and the petition under Section 9 of the Hindu Marriage Act i.e. HMA/314/2024, titled '*Sarthik Jain Vs. Muskan Jain*', filed by the respondent-husband, stands transferred from the Family Court, Faridkot, to the Court of competent jurisdiction at Ludhiana. The requisite record of the aforesaid case be sent by the Family Court, Faridkot, to the 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.

03.07.2025
Himanshu

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No