



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

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**CRM-M No.3544 of 2025  
Date of decision: 23.01.2025**

Sukhwinder Kaur and another  
.....Petitioners  
Versus  
Jarnail Singh  
.....Respondent

**CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

**Present:** Mr. Nitin Sachdeva, Advocate (Legal Aid Counsel)  
for the petitioners.

**HARPREET SINGH BRAR J. (Oral)**

1. The present petition has been filed under Section 447 of BNSS, 2023, seeking transfer of complaint i.e. COMI/169/2021, titled as “Jarnail Singh vs Sukhwinder Kaur and another” (Annexure P-5), filed by the respondent from the Court of learned Judicial Magistrate Ist Class, Amritsar to the competent Court of jurisdiction at Hoshiarpur.
2. Learned counsel for the petitioner, *inter alia*, contends that the proceedings in the petition filed under Section 125 Cr.P.C. (Annexure P-3), as well as the complaint filed under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (Annexure P-1) are pending adjudication before the competent Court of jurisdiction at Hoshiarpur and even the trial of FIR No.44 registered under Sections 498-A and 460 IPC at Police Station Chabbewal, District Hoshiarpur, is going on before the learned trial Court at Hoshiarpur. He submits that the petitioners are residing at Hoshiarpur and petitioner No.2 is

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suffering from age related ailments especially coronary artery disease and severe diabetes mellitus. It is further contended that the distance between Amritsar and Hoshiarpur is about 160 kms and as such, it is very difficult for the petitioners to travel to Amritsar to pursue the complaint (Annexure P-5) at District Court, Amritsar.

5. Further, learned counsel for the petitioner relies upon the judgments rendered by the Hon'ble Supreme Court in ***Sumita Singh Vs. Kumar Sanjay and another, AIR 2002 SC 396*** and ***Rajani Kishor Pardeshi Vs. Kishor Babulal Pardeshi, (2005) 12 SCC 237*** to contend that while deciding the transfer applications, more weightage and consideration should be given to the convenience of the female litigants and transfer of legal proceedings from one Court to another Court should ordinarily be allowed in order to avoid undue hardship to the female litigants.

6. Having heard learned counsel for the petitioner and after perusing the record of the case with his able assistance, present petition is being decided *in limine* without issuing notice to the respondent in order to save judicial time of the Court and also the litigation costs of the respondent.

8. 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. Further a three Judge Bench of the Hon'ble Supreme Court in ***Gana Saraswathi Vs. H. Raghu Prasad, (2000) 10 SCC 277*** had observed that in the interest of justice, the doctrine of forum non-conveniens can also be extended to matrimonial proceedings. It was stated that Courts usually allow transfer petitions in such cases to ensure that the wife does not suffer on account of not being able to participate in the proceedings.

9. A two Judge Bench of the Hon'ble Supreme Court in ***N.C.V. Aishwarya Vs. A.S. Saravana Karthik Sha, 2022 SCC OnLine SC 1199*** has held as under:-

*“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.*

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*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.”*

10. In the present case, the petitioners are residing at Hoshiarpur and petitioner No.2 is 59 years old and suffering from age related ailments. Furthermore, the distance between Hoshiarpur and Amritsar is about 160 kms and therefore, it would cause immense hardship to the petitioners, much less, they will have to bear the transportation expenses to attend the Court proceedings on each and every date of hearing.

11. In view of the law settled by the Hon’ble Supreme Court in ***Sumita Singh***’s case (supra), ***Rajani Kishor Pardeshi***’s case (supra) and ***N.C.V. Aishwarya***’s case (supra), present petition is allowed. Resultantly, the complaint i.e. COMI/169/2021, titled as “Jarnail Singh vs Sukhwinder Kaur and another” (Annexure P-5), filed by the respondent pending in the Court of learned Judicial Magistrate Ist Class, Amritsar is ordered to be transferred to the jurisdiction of District and Sessions Judge, Hoshiarpur. The District Judge, Amritsar is directed to transfer the record pertaining to the aforesaid case to the District Judge, Hoshiarpur, who will assign the said petition to the competent Court of jurisdiction. The parties are directed to appear before the learned trial Court within a period of 30 days from today.

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12. However, before parting with this order, liberty is granted to the respondent to revive this petition, if he intends to contest the instant petition, subject to the following terms:-

- (a) The respondent will clear all arrears of maintenance, if any, in terms of the petition filed by the petitioner under Section 125 Cr.P.C. or in any other proceedings.
- (b) The respondent will undertake on affidavit to pay the expenses of transportation availed by the petitioners to attend the Court proceedings at Amritsar and Rs.500/- as diet charges for each and every date of hearing.
- (c) The respondent will bring a demand draft of Rs.25,000/- towards the litigation expenses of petitioner No.1 to pursue the case at Amritsar, in case the respondent opt to contest this petition.

**(HARPREET SINGH BRAR)**  
**JUDGE**

**23.01.2025**  
*yakub*

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