



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

Sr. No.230**TA-121-2024****Date of Decision: 17.09.2025****RAJNI DEVI****....Applicant****Versus****NARESH KUMAR****.....Respondent****CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI**

Present:- Mr. Munish Puri, Advocate
for the applicant.

Mr. Vishal Munjal, 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/587/2022, titled '*Naresh Kumar Vs. Rajni Devi & another*', filed by the respondent-husband, pending in the Family Court, Gurdaspur and she seeks transfer of the same to the Court of competent jurisdiction at Pathankot.

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

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 10.12.2016. One daughter was born from the said wedlock on 22.10.2018,



who is presently in the care and custody of the respondent. On account of the matrimonial dispute, the parties are residing separate. The applicant has filed a complaint against the respondent in Police Station Taragarh, Pathankot, on the basis whereof, FIR bearing No.86 dated 17.11.2022, under Sections 323, 406, 498-A and 506 IPC and the respondent is facing trial, relating to the said FIR in the Courts at Pathankot. Besides the same, the applicant has filed the petition under Section 125 Cr.P.C., which is also pending in the Courts at Pathankot and the respondent is making appearance in the same. It is submitted that the present divorce petition is only a counter-blast to the aforesaid litigation, initiated at the instance of the applicant.

On the other hand, counsel for the respondent, while making reference to the reply filed, submits that the applicant has not come to the Court with clean hands. In fact, it is submitted that Gurdaspur, as well as Pathankot, are equi-distant from village Darshopur, of which the applicant is resident. Moreover, it is submitted that the applicant has also filed the guardianship petition, which is pending in the Courts at Gurdaspur, the disclosure whereof has not been made by the applicant.

In view of the submissions aforesaid, it is pertinent to mention that though, generally the Courts lean towards convenience of the wife, while considering the transfer application relating to the matrimonial dispute, but however, the same is not a thumb rule. Various other circumstances, spelt out from the material brought on record, ought to be taken into consideration. Each case has to be decided in its own factual background and there is no cast iron formula for deciding the transfer



applications. Various factors have to be taken into consideration and few of them are “*the earning capacity of both the parties and also their financial affluence, which spouse is having the custody of the child (if any), availability and convenience of the witnesses and above all the convenience of both the parties and primarily the interest of the child*”. In the case in hand, though, the applicant herself is not working, but however, the daughter born from the said wedlock, who is about 7 years old, is in the care and custody of the respondent. Furthermore, the distance of Gurdaspur and Pathankot, from the place of residence of the applicant, is alleged to be about 23 kilometres. Above all, the applicant has not disclosed about the guardianship petition filed, which is already pending in the Courts at Gurdaspur.

In view of the aforesaid fact situation and primarily considering best interest of the daughter born from the wedlock of the parties, the convenience of the applicant cannot be placed on a higher pedestal. In the light of the same, no case is made out to transfer the divorce petition.

Hence, the transfer application is hereby dismissed.

17.09.2025
Himanshu Vats

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No