

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

Sr. No.115

TA-141-2024

Date of Decision: 06.03.2025

HARPREET KAUR

....Applicant

Versus

HARPREET SINGH

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Ms. Gurpal Kaur Dullat, Advocate
for the applicant.

Mr. Harvinder Pal Ghuman, 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. DMC/77/2023, titled '*Harpreet Singh Vs. Harpreet Kaur*', filed by the respondent-husband, pending in the Family Court, Fatehgarh Sahib and she seeks transfer of the same to the Court of competent jurisdiction at Barnala.

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

Learned counsel for the parties heard.

It is submitted by the counsel for the applicant that the marriage between the parties to the lis, had taken place on 09.10.2021. One son born from the said wedlock, who is about 1½ years old, is in the care and custody of the applicant. On account of the matrimonial discord, the parties are residing separate. The applicant has no source of earning and is totally dependent upon her parental family. As such, she has filed the petition

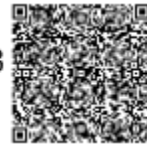


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under Section 125 Cr.P.C., which is pending in the Courts at Barnala and the respondent is making appearance in the same. Besides the same, she has also filed the complaint under Section 156(3) Cr.P.C., for registration of case under Sections 323, 406, 498-A and 34 IPC, which is still pending in the Court of Chief Judicial Magistrate, Barnala. In the given circumstances, it is submitted that it is difficult for the applicant, to commute a distance of about 100 kilometres, to defend the divorce petition.

On the contrary, the counsel for the respondent, while making reference to the reply, submits that the applicant had already made appearance in the divorce petition, pending at Fatehgarh Sahib. Therefore, she can pursue the same and there is no necessity for filing separate application for seeking maintenance. The recourse could be by way of filing an application under Section 24 of the Hindu Marriage Act, in the pending litigation. As such, it is submitted that the petition under Section 125 Cr.P.C., is only a counter-blast to the divorce petition, filed by the respondent.

In view of the submissions aforesaid, at the very outset, it is pertinent to mention that the Courts or the rival parties, cannot give an advise to the applicant, as to which process she should follow, to assert her rights, in the matrimonial dispute. It is for the party concerned, to take a decision, with regard to the kind of litigation, he/she wants to initiate. Even though, it is submitted that the petition under Section 125 Cr.P.C., is a counter-blast to the petition under Section 13 of the Hindu Marriage Act, but the same is a matter, to be adjudicated by the concerned Court, where the litigation is pending. Solely, the fact about the divorce petition having filed prior in time, do not bar the applicant-wife from filing an application for



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seeking transfer of the divorce petition.

Considering the position of law about preference to be given to the convenience of the wife in the transfer applications relating to the matrimonial dispute, more particularly, considering the fact about the applicant having no source of earning and taking care of the minor child and also considering the distance between the two places, the transfer application is allowed and the petition under Section 13 of the Hindu Marriage Act i.e. DMC/77/2023, titled '*Harpreet Singh Vs. Harpreet Kaur*', filed by the respondent-husband, stands transferred from the Family Court, Fatehgarh Sahib, to the Court of competent jurisdiction at Barnala. The requisite record of the aforesaid case be sent by the Family Court, Fatehgarh Sahib, to the District and Sessions Judge, Barnala.

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

06.03.2025

Himanshu

**(ARCHANA PURI)
JUDGE**

Whether speaking/reasoned : Yes

Whether reportable : Yes/No