

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

Sr. No.227

TA-540-2024

Date of Decision: 08.07.2025

REKHA

....Applicant

Versus

VARINDER KUMAR

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

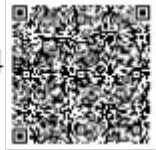
Present:- Mr. Rajesh K Dadwal, Advocate
for the applicant.

Mr. Amandeep Singh Rai and
Ms. Sunaina Rani, Advocates
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/20/2024 titled '*Varinder Kumar v/s Rekha*', filed by the respondent-husband, pending in the Family Court, Garhshankar and she seeks transfer of the same to the Court of competent jurisdiction at Pehowa, District Kurukshetra.

Upon notice, the respondent has made appearance through counsel and filed the reply, which is already on the court file.

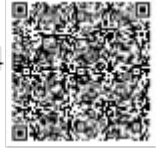


At the very outset, it is submitted by the counsel for the applicant that the marriage between the parties to the lis, had taken place on 04.02.2006 and one son was born from the said wedlock on 28.04.2008, who is in the custody of the petitioner. However, on account of matrimonial dispute, the parties are residing separate since 2007.

It is submitted by the counsel for the applicant that FIR No.162 under Section 406, 498-A and 420 IPC, was registered by the applicant against the respondent on 04.05.2007. However, after registration of the FIR, the compromise has been effected between the parties, as a result whereof, cancellation report was prepared and sent to the court. However, after filing of the cancellation report, the applicant was again turned out of the matrimonial house, on account of which, she has filed the protest petition, which was dismissed by learned Trial Court. Furthermore, it is submitted that the applicant had filed petition under Section 9 of Hindu Marriage Act, in the courts at Family Court, Garhshankar and on the basis of order passed in TA-236-2009, this court had transferred the said case to the courts at Pehowa, District Kurukshetra.

Also, it is submitted by the counsel for the applicant that the applicant is not having any source of earning and is dependent upon her parental family. The applicant had filed petition under Section 125 Cr.P.C., which has since been decided in her favour. However, the respondent, till date, has not paid any arrears of maintenance to the applicant and her son. In the given circumstances, it is submitted that it is difficult for the applicant to commute a distance of about 200 kms, to defend the divorce petition.

On the other hand, counsel for the respondent while making reference to the reply, submits that it was only on account of the bad conduct



of the applicant that the cancellation report was filed. Furthermore, it is submitted that the petition under Section 9 of Hindu Marriage Act, was also allowed, copy of the order is annexed as Annexure R-3. On query by the court, it is submitted that no further action has been taken after the decision of the petition under Section 9 of Hindu Marriage Act on 06.01.2023.

In view of the submissions aforesaid, it is pertinent to mention that generally, the courts though give preference to the convenience of wife in the transfer applications, relating to the matrimonial disputes, but however, the same is not a thumb rule. Various other circumstances surfaced from the material brought on record, ought to be taken into consideration and some balancing of the convenience/inconvenience of both the parties, has to be considered in the backdrop of the factual position of each transfer application. In the case in hand, the applicant is residing separate since the year 2007. The child born from the said wedlock, who is about 17 years old at present is in the care and custody of the applicant. He is student of 12th class. After the fixation of the maintenance, no arrears of maintenance has been paid by the respondent to the applicant and her son.

In view of the aforesaid fact situation and also considering the conduct of the respondent; the applicant not having any source of earning as well as the distance between the two places to be about 200 kms, the present application is allowed and the petition under Section 13 of the Hindu Marriage Act i.e. HMA/20/2024 titled '*Varinder Kumar v/s Rekha*', filed by the respondent-husband, stands transferred from the Family Court, Garhshankar to the Family Court, Pehowa. The requisite record of the aforesaid case be sent by the Family Court, Garhshankar to the District and Sessions Judge, Kurukshetra.



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

08.07.2025
Sonu

(ARCHANA PURI)
JUDGE

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