

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

Sr. No.205

TA-570-2025

Date of Decision: 14.11.2025

PARVESH KUMARI

....Applicant

Versus

VIKAS

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Mr. Rishab Bhandari, Ms. Deepika Sharma,
Mr. Mehtab Singh and Ms. Nimisha, Advocates
for the applicant.

Mr. Rhythem Bajaj, Advocate
for the respondent.

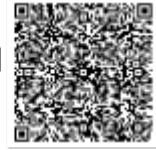
ARCHANA PURI, J. (Oral)

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/617/2023, titled '*Vikas v/s Parvesh Kumari*', filed by the respondent-husband, pending in the Family Court, Chandigarh and she seeks transfer of the same to the Court of competent jurisdiction at Bhiwani.

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

Counsel for the parties heard.

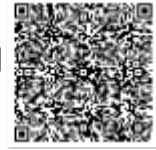
At the very outset, it is submitted by the counsel for the applicant that the marriage between the parties, had taken place on 26.09.2012 and three children were born from the said wedlock. However, on account of the matrimonial dispute, the parties are residing separate. It is



further submitted that at first instance, the applicant was beaten and along with the children, was thrown out of the matrimonial house on 30.08.2018, by the respondent. Thereupon, she got lodged an FIR under Section 498-A IPC, against the respondent and also filed the petition for seeking maintenance. However, in the criminal case, very cleverly the respondent had compromised the matter and made the applicant to give the statement, thereby not supporting the prosecution version, with regard to the cruelty and the statement was so given by the applicant. Thereupon, the judgment of acquittal was delivered by the court and the respondent ran away to Chandigarh and left the applicant alone in the courts at Bhiwani. In this manner, the custody of the children was also obtained in a clever manner. Furthermore, it is also submitted that the interim maintenance was fixed and the case for maintenance was also withdrawn, in view of the deceitful compromise arrived at the instance of the respondent.

Furthermore, it is also submitted that the applicant has filed petition under Section 12 of Protection of Women from Domestic Violence Act, wherein the respondent at first instance, had made appearance and thereafter has been proceeded against *ex parte*. Also, it is submitted that the respondent is evading service in the petition under Section 9 of Hindu Marriage Act and now the case is fixed to secure his presence through publication. Both the said cases are pending in the courts at Chandigarh. Besides the same, the applicant has filed one civil suit i.e. CJ/169/2024, which is also pending in the courts at Chandigarh.

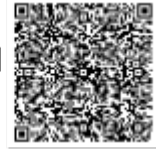
It is also submitted by the counsel for the applicant that the applicant is not having any source of earning and is dependent upon her parental family and consequently, it is difficult for her to commute a



distance of about 250 kms to defend the divorce petition.

On the other hand, counsel for the respondent, while making reference to the reply submits that wrong facts have been projected by the applicant. In fact, it is submitted that she is running a boutique and is having a good source of income. Also, with regard to the assertions of arrival of compromise and the judgment of acquittal having secured, on the basis thereof, is wrongly stated. In fact, after the decision, of the criminal case, she had accompanied the respondent to Chandigarh and thereafter, had left the house while leaving behind the children. In the given circumstances, it is submitted that it shall become difficult for him also to pursue the divorce petition, more particularly, while taking care of the three minor children.

In view of the submissions made aforesaid, at the very outset, it be noted that while adjudicating on the transfer applications, relating to the matrimonial disputes, the courts generally lean towards the convenience of wife, but however, the same is not a thumb rule. Other circumstances spelt out from the material brought on record also ought to be taken into consideration. Each case has to be decided on its own factual background. Various factors ought to be taken into consideration and one distinctive circumstance may change the decision of the case. No doubt, in the case in hand, there are three children born from the wedlock, who are in the care and custody of the respondent, but however, circumstances spelt out with regard to the manner, in which the respondent is having the custody, ought to be taken note of. At first instance, as asserted, the applicant along with the children was turned out of the house on 30.08.2018 and thereupon, the FIR was got registered and the challan was presented against the respondent, in which he was facing trial and judgment of acquittal was passed by the



criminal court, copy whereof is Annexure R-1. However, perusal of the same reveals that the complainant herself had stepped into witness box, as PW-3 and therein, she had not supported the prosecution version, as observed by learned trial Court. Considering the same, on that very date, when her statement was recorded, the judgment of acquittal was passed. This manner of recording of the statement, probablizes the version now put forth by the applicant about the camouflage compromise having effected at the behest of the respondent.

Furthermore, the conduct of the respondent also ought to be taken into consideration. There are two other litigation after the decision of the criminal case also pending in the courts at Bhiwani. In the petition under Section 12 of Protection of Women from Domestic Violence Act, though the respondent had made appearance, at first instance, but thereafter, he had been proceeded against *ex parte*, whereas the other petition under Section 9 of Hindu Marriage Act, which is also pending in the courts at Bhiwani, he had not made appearance and the court was constrained to issue publication. However, counsel for the respondent submits that the respondent had not received the summons.

The present application was filed in the month of April, 2025. On query by the court, counsel was unable to state as to whether the respondent had made appearance in the same, till date.

Considering the aforesaid circumstances, it is just and expedient to accept the transfer application. Hence, the same is hereby allowed and the petition under Section 13 of the Hindu Marriage Act i.e. HMA/617/2023, titled '*Vikas v/s Parvesh Kumari*', filed by the respondent-husband, stands transferred from the Family Court, Chandigarh, to the Court of competent



jurisdiction at Bhiwani. The requisite record of the aforesaid case be sent by the Family Court, Chandigarh, to the District and Sessions Judge, Bhiwani.

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

However, considering the children to be in the custody of the respondent, the respondent always has an option to file an application for making appearance before the court concerned, as and when required, through virtual mode and upon filing of such application, the Court concerned shall consider the same and pass an appropriate order, in the fitness of circumstances.

14.11.2025
Sonu Saini

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No