



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

Sr. No.107

**TA-701-2024 (O&M)
Date of Decision: 01.05.2025**

DOLLY ARORA

....Applicant

Versus

ISHAN ARORA

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Mr. Raju Arora, Advocate
for the applicant.

Mr. Sidhant Vermani, Advocate
for the respondent.

ARCHANA PURI, J. (Oral)

CM-12695-CII-2024

The present application has been filed for placing on record the reply to the transfer application.

In view of the averments made in the application, same is allowed and the requisite reply is taken on record.

Main case

The applicant-Dolly Arora has filed the present application for seeking transfer of the petition under Section 13 of the Hindu Marriage Act, having CNR No.PBAS010013732023 dated 21.01.2023, titled '*Ishan Arora Vs. Dolly Arora*', filed by the respondent, pending in the Family Court,



TA-701-2024 (O&M)

Amritsar and she seeks transfer of the same to the Court of competent jurisdiction at Ludhiana.

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

The counsel for the parties heard.

At the very outset, it is submitted by the counsel for the applicant that the marriage had not taken place, between the parties to the lis. However, it was under the mischeveous circumstances that the dummy photographs of the marriage were obtained by the respondent and his family and the pandit was called for conducting of hawan on 16.04.2021. In the given circumstances, it is submitted that it was only on account of these dummy photographs, that the fact of marriage is asserted by the respondent. Furthermore, it is submitted that the applicant has already filed the suit for declaration qua status of the said marriage, copy whereof is Annexure P-3, as she asserted about the registration certificate, copy whereof is Annexure P-4, to be fabricated and result of fraud. Even, it is contended that FIR bearing No.14 dated 30.10.2023, under Sections 376, 420, 465, 467, 471 and 120-B IPC, was got registered against the respondent and Pandit Tarun Sharma, who was also involved in the process of preparing documents qua the dummy marriage. It is submitted that FIR bearing No.236 of 2022, under Section 306 IPC, was also got registered against the respondent, at Police Station City Kotkapura, District Faridkot, *vis-a-vis*, the commission of suicide by the brother of the applicant.

Further, it has been stated by the counsel for the applicant that the applicant is unemployed and is dependent upon her father. Also, it is submitted that it is difficult for the applicant, to pursue the divorce petition



TA-701-2024 (O&M)

at Amritsar, as she apprehends constant threat to her life, at the instance of the respondent, relating to which, she had filed complaint before the police. On query, it is submitted that no FIR has been recorded, on the basis thereof.

On the contrary, the counsel for the respondent has resisted the claim for transfer of the divorce petition. In fact, while making reference to the reply filed and the documents annexed therewith, it is contended by the counsel that the applicant has not approached the Court with clean hands. She has concealed the material facts. At the very outset, the counsel for the respondent submits that the applicant is working and she has stated herself to be unemployed and having no source of earning. In fact, she is employed as a Health Insurance Agent. In this regard, the counsel has made reference to Annexure R-16, which is letter of appointment as Health Insurance Agent, in the name of the applicant. Also, the copy of the statement of bank account has been produced on record, thereby showing numerous deposits, made in the account of the applicant as Health and Allied Insurance Agent.

Besides the same, the counsel submitted that even though, the counsel for the applicant had laid emphasis to the convenience of the applicant, to pursue the divorce petition, but however, the applicant and her family, are themselves indulging in various litigation and filed complaints before the police authorities, thereby making a frantic effort for initiation of criminal action against the respondent, with regard to the accusations of commission of rape. The father of the applicant had filed a complaint before Commissioner of Police, with regard to the accusations of rape, having committed by the respondent. Copy of the said complaint is Annexure R-5. However, the said matter was enquired into and inquiry report is Annexure R-6, whereby the respondent was exonerated, from the accusations of rape.



TA-701-2024 (O&M)

Thereafter, again the applicant had sought inquiry on the same complaint from Senior Superintendent of Police, Khanna and the matter was enquired into and again, it was held by the police authorities that no further action is called for and recommendation was made by the Investigating Officer, to consign the application. Copy of the said inquiry report is Annexure R-10. The said complaints were stated to be quashed vide order dated 01.04.2024, passed by Coordinate Bench in CRM-M-59247-2023.

Also, the counsel for the respondent has pointed out that thereafter, FIR on the same accusations was got lodged by the applicant's side in Police Station, Punjab State Crime, SAS Nagar, copy whereof is Annexure R-12. Further, it is pointed out by the counsel for the respondent that FIR bearing No.236 dated 26.11.2022, under Section 306 IPC, was got registered against the respondent, at Police Station City Kotkapura, District Faridkot, on account of suicide committed by the brother of the applicant. However, the said FIR was quashed vide order dated 03.09.2024 passed in CRM-M-34499-2023. Now, it is submitted that after quashing of the aforesaid complaints/FIR, the respondent has also filed the suit for malicious prosecution, yesterday only, at Amritsar.

In the light of the aforesaid documents, the counsel for the respondent has submitted that the applicant had indulged in multiple litigation, at various places, such like Ludhiana, Khanna, SAS Nagar and Faridkot. However, therein the applicant side remained unsuccessful in making out the case for implication of the respondent in criminal case.

In view of the rival submissions aforesaid, it is pertinent to mention that even though, generally, the Courts lean towards the convenience of wife, in case of transfer applications relating to the



TA-701-2024 (O&M)

matrimonial disputes, but however, it is not a thumb rule. Various circumstances, coming forth during the course of pleadings of the parties and otherwise placed on record, also ought to be taken into consideration, to adjudicate on the transfer application. The party, who comes to the Court to seek discretionary relief, is expected and desired to come with clean hands and put forth all the facts, which have bearing on the decision of the transfer application. However, in the case in hand, the applicant has not come forth with the clean hands. It is a categorical claim of the applicant that she is unemployed and is dependent upon her parents, but however, as detailed aforesaid, it stands amply established that the applicant is working as a Health Insurance Agent. She is receiving various amounts in her bank account, statement whereof is produced on record, with regard to the transaction of the business of the health insurance. Though, while controverting this document, the counsel for the applicant has submitted that this agency is run by the sister of the applicant and her brother-in-law, but however, this fact has not been asserted anywhere and there is nothing coming on record, about the involvement of the sister and brother-in-law of the applicant in this agency. In fact, the appointment letter is in the name of the applicant and the bank statement also reflects about the account to be in the name of the applicant, wherein, multiple amounts have been credited, on account of transaction of business of Health Insurance.

Not only the aforesaid, even though, reference in the application has been made to the various complaints/FIR, got lodged against the respondent, at the instance of the applicant's father, but however, very cleverly, the status of the complaints/FIR has not been mentioned anywhere in the petition. It is only evident from the reply filed and the documents



TA-701-2024 (O&M)

annexed thereto. As observed aforesaid, various complaints/FIR have been quashed by this Court. Even, the police authorities have made recommendations of filing of the complaints. The perusal of the voluminous documents, coming forth, reveals about frantic efforts to have been made by the applicant and her family, to take all steps to secure registration of criminal proceedings, against the respondent. The said steps have been taken at various places, such like, Ludhiana, Khanna, SAS Nagar and Faridkot.

Considering the aforesaid conduct of the applicant and her family, more particularly, when there is concealment of material fact about the applicant to be employed, no case is made out for transfer of the divorce petition.

Hence, the transfer application is hereby dismissed.

01.05.2025
Himanshu

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No