



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.205

TA-777-2025

Date of Decision: 29.10.2025

REKHA RANI

....Applicant

Versus

KUNAL GARG

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Mr. J.K. Singla, Ms. Shivani Singla,
Mr. Dheeraj Singla and Ms. Suman Rani, Advocates
for the applicant.

Mr. Munish Garg, Advocate
for the respondent.

ARCHANA PURI, J. (Oral)

The applicant-wife has filed the present application for seeking transfer of the petition under Section 11 of the Hindu Marriage Act i.e. HMA/260/2025, titled '*Kunal Garg Vs. Rekha Rani*', filed by the respondent-husband, pending in the Family Court, Barnala and she seeks transfer of the same to the Court of competent jurisdiction at Mansa.

In pursuance of 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 marriage of the applicant and the respondent, is third marriage of both of them. Earlier, the applicant was married with one Tarun Kumar



and from the said wedlock, one son-Piyush, was born. However, divorce was effected between the applicant and her first husband and the son-Piyush, is in the care and custody of the applicant. Thereafter, the applicant had remarried Mahesh Kumar and one daughter was born from the said wedlock, who had unfortunately died. Divorce was effected between both of them also. Thereafter, the applicant had solemnized marriage with the respondent and no child was born from the said wedlock. However, there is matrimonial dispute between the parties and as such, they are residing separate. The applicant has no source of earning and she is residing at her parental place. On account of this matrimonial dispute, she has filed the petition under Section 144 of the Bharatiya Nagarik Suraksha Sanhita, 2023, as well as the petition under Section 12 of the Protection of Women from Domestic Violence Act, which are pending in the Courts at Mansa. Also further, it is submitted that the respondent is a practising 'Advocate' at Barnala and on this account, he is an influential person. Therefore, the applicant apprehends of not getting justice, if the petition under Section 11 of the Hindu Marriage Act, remains pending in the Courts at Barnala. The distance between the two places is about 55 kilometres.

On the other hand, counsel for the respondent, while making reference to the reply, resists the transfer application. He submits that even though, it was the third marriage, but however, the dispute arose between them. The respondent is also having daughter from his previous marriage, who is about 7 years old, and he is having the custody of the said child. Also, counsel submits that the applicant had not obtained divorce from her second husband. Therefore, there is concealment of material facts, at her



instance. On account of her wrong conduct, the applicant is not entitled to seek transfer of the case. Moreover, the respondent had also filed the complaint under Section 82(1)/82(2)/318/308(2)/316/61(2) of Bharatiya Nyaya Sanhita, copy whereof is Annexure R-2. Besides the same, also it is submitted that the daughter, who is in the custody of the respondent, is also having health issues and as such, is undergoing treatment from the Department of Nephrology in PGI. In this regard, reference is made to Annexure R-3, which is photocopy of the OPD Card.

In view of the submissions aforesaid, it is pertinent to mention that generally, the Courts lean towards convenience of the wife, in case of transfer application relating to the matrimonial dispute, though it may not be a thumb rule. Various other circumstances, spelt out from the material brought on record, ought to be taken into consideration. In the case in hand, it is pertinent to observe that even though, the respondent had made reference to the merits of the petition under Section 11 of the Hindu Marriage Act, while stating that divorce was not obtained by the applicant from her second husband, but however, this question has to be adjudicated by the Court concerned and the same does not form the subject matter of the transfer application. Similar is the observation made with regard to the complaint filed by the respondent, copy whereof is Annexure R-2. However, various other circumstances, otherwise spelt out from the pleadings, ought to be taken into consideration. Though, no child is born from the wedlock of the parties, but however, one son born from the first marriage of the applicant, is in her care and custody. She is taking care of the said child, while herself having no source of earning. Even, she has filed



the petition under Section 144 Bharatiya Nagarik Suraksha Sanhita, 2023 and the petition under Section 12 of the Protection of Women from Domestic Violence Act, which are pending in the Courts at Mansa and the respondent is pursuing both the said cases.

Even though, it is asserted about the respondent to be a practising Advocate at Barnala and being an influential person, but however, this singularly, do not make up any case for acceptance of the transfer application, as there is nothing more coming, beyond the status of the advocate, enjoyed by the respondent. Inter-meddling in the litigation, as such, is neither asserted, nor evident from the material brought on record. But anyhow, the other mitigating circumstances, ought to be taken into consideration. The respondent is taking care of one daughter born from his previous marriage, who is having medical issues and the treatment is going on in PGI. OPD Card has been brought on record. On query by this Court, it has been submitted by the counsel for the respondent that the said daughter is 7 years old and besides the daughter, his parents are also residing with him.

Considering the aforesaid circumstances, taking into consideration the constrained circumstances of the applicant, more particularly, considering her to be having no source of earning and taking care of one son, as well as, fact of other litigation arising from the matrimonial dispute, already pending in the Courts at Mansa, which is pursued by the respondent, the transfer application is allowed and the petition under Section 11 of the Hindu Marriage Act i.e. HMA/260/2025, titled '*Kunal Garg Vs. Rekha Rani*', filed by the respondent-husband, stands



transferred from the Family Court, Barnala, to the Court of competent jurisdiction at Mansa. The requisite record of the aforesaid case be sent by the Family Court, Barnala, to the District and Sessions Judge, Mansa.

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

29.10.2025
Himanshu Vats

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No