

2025:PHHC:003218



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

TA-983-2023(O&M)
Date of Decision: January 10, 2025

Mona @ Mona Rani

...Applicant

Versus

Shammi Kumar

...Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Rupender Singh Rana, Legal Aid counsel
for the applicant.

None for the respondent.

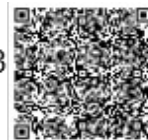
ARCHANA PURI, J.

The applicant-wife has filed the present application for seeking transfer of the petition under Section 13(1)(ia)(ib) of the Hindu Marriage Act, filed by respondent-husband bearing No.HMA-65-2023 titled 'Shammi Kumar vs Mona', which is pending in the Family Court, Gurugram and she seeks transfer of the same to the Court of competent jurisdiction at Bhiwani.

In pursuance of the notice issued by the Court, none had made appearance on behalf of the respondent and as such, he was proceeded against ex-parte.

Learned counsel for the applicant heard.

At the very outset, it is submitted by learned counsel for the



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applicant that marriage between the parties to the lis, had taken place on 22.01.2018 and one daughter was born from the said wedlock, in the year 2018, who is in the care and custody of the respondent-husband. However, on account of matrimonial discord, the parties are residing separate. The applicant had filed maintenance petition bearing No.MNT-166-2019, but the same was dismissed vide order dated 11.10.2022. Furthermore, also it is submitted that a complaint under Protection of Women from Domestic Violence Act, is pending before the Courts at Bhiwani. Even, FIR No.46 dated 24.02.2023 under Sections 376(2)(n), 376-B and 506 IPC, Police station Bhiwani was got registered by the applicant against the respondent and trial is also pending before the Courts at Bhiwani.

Also, it is submitted by learned counsel for the applicant that applicant is not having independent source of earning and therefore, it is difficult for her to commute a distance of about 134 kms., to defend the divorce petition.

Keeping in view the aforesaid submissions, also it is pertinent to mention that time and again, it has been held by the Courts that preference ought to be given to the convenience of the wife in the case of transfer application, relating to the matrimonial dispute, but however, it is not a thumb rule. Copy of the order of dismissal of the maintenance petition has been annexed with the application, which is Annexure P-1. Perusal of the same reveals that maintenance was declined to the applicant. From the observations made in the said order, it is evident that the minor daughter born from the wedlock of the parties, is residing with the respondent-



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husband.

Even though, in the present transfer application, it is asserted that the applicant is not having any independent source of earning, but however, in the Annexure P-1, it has been observed that the applicant is running a boutique, under the name and style of ‘Mona Boutique’.

On query put by the Court, it is conceded by learned counsel for the applicant that the applicant is working. Thus, there is suppression of material fact, which has bearing on the decision of the application filed at the instance of the applicant.

Considering the same and also considering the fact of minor child born from the wedlock of parties to the lis, to be in the care and custody of the respondent, at this stage, no case is made out for transfer of the divorce petition.

Hence, the present transfer application is hereby dismissed.

January 10, 2025
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No