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

Sr. No.235

CRM-M-46355-2023 (O&M)
Date of decision : 21.01.2025

Heena

..... Petitioner

VERSUS

State of Haryana and others

..... Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Ravinder Bangar, Advocate, for the petitioner.

Mr. Brijesh Sharma, AAG, Haryana.

Mr. Ankit Singla, Advocate, for respondents No.2 to 5.

KIRTI SINGH, J. (Oral)

1. By way of the present petition under Section 407 Cr.P.C. prayer is made for transfer of case bearing CHI No.569 of 2023 and connected proceedings emanating out of FIR No.217 dated 14.12.2022 under Sections 323, 342, 406, 498-A, 506 & 34 of IPC, registered at Police Station Women West, Gurugram, District Gurugram from the learned Court of JMIC, Gurugram to competent Court in District Kurukshetra.

2. Learned counsel for the petitioner *inter alia* submits that the petitioner solemnized marriage with respondent No.2 on 21.06.2019. Respondents No.2 to 5 used to harass and assault the petitioner due to which she presented a complaint which culminated in registration of aforesaid FIR. The petitioner is permanent resident of District Kurukshetra and she is residing with her parents at Kurukshetra. She has to attend the trial at District Court, Gurugram which is approximately 200 kilometers from District Kurukshetra and as such, it is very difficult to her to travel to

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Gurugram to pursue the abovestated case and there is no one to accompany her. He further submits that a complaint under Section 12 of Domestic Violence Act bearing No.COMA/51/2024 is also pending before JMIC, Kurukshetra.

3. Further, learned counsel for the petitioner relies upon the judgments rendered by the **Hon'ble Supreme Court in Sumita Singh Vs. Kumar Sanjay and another, AIR 2002 SC 396 and Rajani Kishor Pardeshi Vs. Kishor Babulal Pardeshi, (2005) 12 SCC 237** to contend that while deciding the transfer applications, more weightage and consideration should be given to the convenience of the female litigants and transfer of legal proceedings from one Court to another Court should ordinarily be allowed in order to avoid undue hardship to the female litigants.

4. *Per contra*, learned counsel for respondents No.2 to 5 has opposed the prayer made by learned counsel for the petitioner. He submits that the present petition has been filed only to harass respondents No.2 to 5.

5. The learned State counsel submits that he has no objection to the case being transferred as the same would not cause any prejudice to the parties.

6. Heard the rival submissions made by learned counsel for the parties.

7. A two Judge Bench of the Hon'ble Supreme Court dealt with power of the Court to transfer proceedings under Sections 24 and 25 of the Civil Procedure Code in **Kulwinder Kaur @ Kulwinder Gurcharan Singh Vs. Kandi Friends Education Trust, AIR 2008 SC 1333**, wherein it was

held that the power to make such transfers is discretionary in nature and

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hence, it would be unwise to attempt to shackle it with a blanket formula uniformly applicable to all situations. However, it cannot be denied that the power must be used with abundance of care and caution. Further a three Judge Bench of the Hon'ble Supreme Court in **Gana Saraswathi Vs. H. Raghu Prasad, (2000) 10 SCC 277** had observed that in the interest of justice, the doctrine of forum nonconveniens can also be extended to matrimonial proceedings. It was stated that Courts usually allow transfer petitions in such cases to ensure that the wife does not suffer on account of not being able to participate in the proceedings.

8. A two Judge Bench of the Hon'ble Supreme Court in **N.C.V. Aishwarya Vs. A.S. Saravana Karthik Sha, 2022 SCC OnLine SC 1199** has held as under:-

“9. The cardinal principle for exercise of power under Section 24 of the Code of Civil Procedure is that the ends of demand the transfer of the suit, appeal or other proceeding. In matrimonial matters, wherever Courts are called upon to consider the plea of transfer, the Courts have to take into consideration the economic soundness of both the parties, the social strata of the spouses and their behavioural pattern, their standard of life prior to the marriage and subsequent thereto and the circumstances of both the parties in eking out their livelihood and under whose protective umbrella they are seeking their sustenance to life. Given the prevailing socio-economic paradigm in the Indian society, generally, it is the wife's convenience which must be looked at while considering transfer.

10. Further, when two or more proceedings are pending in different Courts between the same parties which raise

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common question of fact and law, and when the decisions in the cases are interdependent, it is desirable that they should be tried together by the same Judge so as to avoid multiplicity in trial of the same issues and conflict of decisions.”

9. In view of the law settled by the Hon’ble Supreme Court in **Sumita Singh’s case (supra), Rajani Kishor Pardeshi’s case (supra) and N.C.V. Aishwarya’s case (supra)**, present petition is allowed. Resultantly, case No. CHI-569-2023 and connected proceedings arising out of FIR No.217 dated 14.12.2022 under Sections 323, 342, 406, 498-A, 506 & 34 of IPC registered at Police Station Women West, Gurugram, District Gurugram pending in the Court of learned Judicial Magistrate 1 st Class, Gurugram is ordered to be transferred to the jurisdiction of District and Sessions Judge, Kurukshetra. The District Judge, Gurugram is directed to transfer the record pertaining to the aforesaid case to the District Judge, Kurukshetra, who will assign the said case to the competent Court of jurisdiction at Kurukshetra. The parties are directed to appear before the learned trial Court within a period of 30 days from today, at District Court, Kurukshetra.

Pending miscellaneous application(s), if any, also stands disposed of.

(KIRTI SINGH)
JUDGE

21.01.2025
Ramandeep Singh

Whether speaking / reasoned
Whether Reportable

Yes/No
Yes/No