



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

Sr. No.112

**TA-1540-2024 (O&M)
Date of Decision: 27.05.2025**

JASMEET KAUR

....Applicant

Versus

LAKHWINDER SINGH

....Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Mr. Mayur Karkra, Advocate
for the applicant.

Mr. Manjot Singh Rai, Advocate
for the respondent.

ARCHANA PURI, J. (Oral)

CM-21471-CII-2024

Keeping in view the averments made in the application, same is allowed.

Main case

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/347/2024, titled '*Lakhwinder Singh Vs. Jasmeet Kaur*', filed by the respondent-husband, pending in the Family Court, SAS Nagar and she seeks transfer of the same to the Court of competent jurisdiction at Patiala.

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

The counsel for the parties heard.



TA-1540-2024 (O&M)

It is submitted by the counsel for the applicant that the marriage between the parties to the lis, had taken place on 09.12.2020. One daughter born from the said wedlock, who is about 4 years old, is in the care and custody of the applicant. On account of the matrimonial dispute, the parties are residing separate. At the time of filing of the application, the applicant was not working. However, it is submitted that now she has joined the beauty academy run by her mother. It is further submitted that the applicant has filed the complaint under Section 12 of the Protection of Women from Domestic Violence Act i.e. COMA/798/2024, which is pending in the Courts at Patiala and the respondent is making appearance in the same. Besides the same, also it is pointed out that the applicant had filed a complaint before Senior Superintendent of Police, Patiala, for registration of FIR, but no action was taken upon the same, by the police authorities and on this account, she had already filed a private complaint in the Courts at Patiala and the same is fixed for preliminary evidence. Also, it is submitted that another FIR bearing No.42 dated 14.05.2024, was got registered against the respondent, his brother and parents, at Police Station IT City, SAS Nagar, as they had misbehaved and illegally confined the process server, who had gone there to effect service of summons upon the respondent. In the given circumstances, it is submitted that it is difficult for the applicant, to pursue the divorce petition from Patiala, more particularly, when she is taking care of the minor child, who is school-going now.

The counsel for the respondent, while making reference to the reply and annexures filed, submits that the applicant has falsely stated in the application about herself to be not having any source of earning. In fact, she



TA-1540-2024 (O&M)

was indulging in the business of nail art, earlier also. Further, it is submitted that on account of ill-health of the respondent, who is suffering from AVN (Avascular Necrosis) of both hips, as a result whereof both hip joints have been damaged because of friction. He has walking problem. In this regard, reference has also been made to Annexure R-2. In the light of the same, it is submitted that it shall be too harsh for the respondent also, to pursue the divorce petition, if the transfer application is allowed.

In view of the rival submissions aforesaid, it is pertinent to mention that generally, the Courts lean towards convenience of the wife, in case of transfer applications, relating to the matrimonial disputes. However, it is not a thumb rule. Various other circumstances, spelt out from the material brought on record, ought to be taken into consideration and only thereupon, weighing the convenience/inconvenience, the transfer application is to be adjudicated. In the case in hand, one daughter born from the wedlock of the parties, who is about 4 years old, is in the care and custody of the applicant. She is a school-going child. This fact also weighs the mind of the Court, while considering the claim for transfer of the divorce petition. Even otherwise, the respondent is pursuing one complaint under the Protection of Women from Domestic Violence Act, which was filed by the applicant, in the Courts at Patiala. Even, one private complaint is also pending in the Courts at Patiala.

In view of the aforesaid fact situation, though the respondent has pointed out about his medical ailment, relating to which medical record is Annexure R-2, but however, it is pertinent to mention that since he is already pursuing one litigation in the Courts at Patiala, more particularly,



TA-1540-2024 (O&M)

when he is not required to make appearance in the divorce petition on each and every date of hearing, the transfer application is allowed and the petition under Section 13 of the Hindu Marriage Act i.e. HMA/347/2024, titled '*Lakhwinder Singh Vs. Jasmeet Kaur*', filed by the respondent-husband, stands transferred from the Family Court, SAS Nagar, to the Court of competent jurisdiction at Patiala. The requisite record of the aforesaid case be sent by the Family Court, SAS Nagar, to the District and Sessions Judge, Patiala.

Learned District and Sessions Judge, Patiala, shall assign the said petition to the Court, where the complaint under the Protection of Women from Domestic Violence Act, between the parties to the lis, is already pending. Even, the parties are directed to appear before the Court concerned, within a period of one month from today onwards.

The Court concerned shall make an endeavour to preferably adjourn both the cases, for one and the same date.

Even, 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, in the fitness of circumstances spelt out and pass an appropriate order.

27.05.2025

Himanshu

**(ARCHANA PURI)
JUDGE**

Whether speaking/reasoned : Yes

Whether reportable : Yes/No