



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.110 (2 cases)

Date of Decision: 29.01.2026

1.

TA-507-2025

NEHA KAKKAR

....Applicant

Versus

ATUL KAKKAR

.....Respondent

2.

TA-1365-2025

NEHA KAKKAR

....Applicant

Versus

ATUL KAKKAR

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Mr. Shubhkarman Singh Gill, Advocate
for the applicant (in TA-507-2025).

Applicant-in-person (in TA-1365-2025).

Mr. Nakul Sharma, Advocate
for the respondent (in both the cases).



ARCHANA PURI, J. (Oral)

These are two applications, filed by Neha Kakkar-applicant/wife, for seeking transfer of the litigation, pending between the parties to the lis.

TA-507-2025 has been filed, for seeking transfer of the petition under Section 10 of the Hindu Marriage Act i.e. DMC/9/2025, titled '*Atul Kakkar Vs. Neha Kakkar*', filed by the respondent-husband, pending in Family Court, Ferozepur and she seeks transfer of the same to the Court of competent jurisdiction at Ludhiana.

TA-1365-2025 has been filed, for seeking transfer of the petition under Section 6 of the Hindu Minority and Guardianship Act read with Sections 25, 7, 8, 10 and 19 of the Guardians and Wards Act i.e. GW/4/2025, titled '*Neha Kakkar Vs. Atul Kakkar*', filed at her instance, thereby seeking custody of the daughter, born from the wedlock of the parties to the lis. The said petition is pending in Family Court (Camp Court) Zira, District Ferozepur and the applicant seeks transfer of the same to the Court of competent jurisdiction at Ludhiana.

In pursuance of the notice issued, respondent made appearance through counsel and filed replies in the respective applications.

Applicant has appeared in person in TA-1365-2025. As such, applicant in the said application, as well as counsel for the applicant in TA-507-2025 and counsel for the respondent in both the applications, heard.



At the very outset, it is submitted by the applicant, who is present in person in TA-1365-2025, that the marriage between her and the respondent, had taken place on 01.07.2013. One daughter born from the said wedlock, who is about 11 years old, is in the care and custody of the respondent/husband. Unfortunately, matrimonial dispute arose between the parties, as a result whereof, they are residing separate. Further, it is submitted by the counsel that the applicant-Neha Kakkar, has done B.Tech. in Electronics and Communication. She was earlier running an IELTS coaching Centre from the year 2016, till 2023. Thereafter, she had started working in HDFC Life Insurance Company Limited, as Senior Corporate Agency Manager and is presently posted in Ludhiana. Her salary is 28,059/- per month.

Earlier, the applicant had filed a complaint under the Protection of Women from Domestic Violence Act, at Zira. However, since she was turned out of the matrimonial house and started living at Ludhiana, she withdrew the said petition. It is also the claim of the applicant that at the time, when she was turned out of the matrimonial house, after subjecting her to beatings, the minor daughter was snatched from her and since then, she is residing with the respondent/husband. Furthermore, it is asserted that the applicant is residing in a rented accommodation in Ludhiana. Her parental house is at a distance of about 10-12 kms., from her workplace. After she started living at Ludhiana, she filed a complaint under Sections 12, 17, 18, 19, 20, 21, 22 and 23 of the Protection of Women from Domestic Violence



Act, which is pending in the Courts at Ludhiana. The distance between Ludhiana and Ferozepur is stated to be about 136 kms.

Also, it is submitted by the counsel for the applicant that there are about 10-12 other cases, which are pending in the Courts at Ludhiana. In this regard, counsel has supplied the list of pending cases between the parties, which is taken on record.

Considering the extent of income of the applicant, she is unable to pursue the litigation, which is pending in the Courts at Zira/Ferozepur. Even, she expressed her constraints to seek leave while pursuing private job. Rather, it is submitted that the respondent is running his own business, in the name and style of 'Satkartar Jewellers' and he is also owner of several moveable and immoveable properties. His earnings are stated to be Rs.4,00,000/- per month. As such, it is submitted that it is convenient for him, to pursue the litigation, even if so transferred to Ludhiana. So far as the child is concerned, it is submitted that she can be taken care of by her paternal grand-parents, who are residing with the respondent.

On the other hand, counsel for the respondent has assiduously refuted the claim for transfer of both the aforesaid cases. While making reference to the reply, counsel for the respondent submits that the applicant has not come to the Court with clean hands. There is concealment of material facts, which have bearing on the decision of the transfer application. In fact, it is submitted that, at first instance, only one transfer application i.e. TA-507-2025 was filed by the applicant, for seeking transfer of the petition under Section 10 of the Hindu Marriage Act. Therein, it was not disclosed



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about the pending guardianship petition and also about the FIR case. Further, it is submitted that FIR bearing No.30 dated 12.04.2025, under Sections 115(2), 126(2), 351(2) and 324(2) of the Bharatiya Nyaya Sanhita, 2023, was got lodged by the applicant, at Police Station City Zira, District Ferozepur, against the respondent and his family members, wherein cross-version has also been set up.

Moreover, it is submitted that the conduct of the applicant is not above board. She is having an illicit relationship with one person 'X' (name avoided to be mentioned), who was earlier an employee of the HDFC Bank, Ferozepur City. On this account, there was a dispute between the parties. Also, it is submitted that looking at the conduct of the applicant also, when she has deviated from the righteous path, she is not entitled to seek transfer of the cases. Furthermore, it is submitted that even though, 10-12 other cases are stated to be pending between the parties at Ludhiana, but however, it is only the complaint under the Protection of Women from Domestic Violence Act, which is pending there and the other cases, which are stated to be pending, are only an offshoot of the said complaint. Moreover, it is submitted that the said cases had been filed, after filing of the transfer applications.

Furthermore, counsel submits that the respondent is taking care of the daughter, who is of growing age and therefore, several challenges are faced by him, while taking care of the said child. Therefore, it is submitted that, while watching the interest of the child also, the transfer applications ought not to be allowed.



In view of the submissions aforesaid, it is pertinent to mention that Section 24 CPC empowers the High Court and District Court, to transfer *inter alia* any suit, appeal or other proceedings, pending before it, or in any other Court, subordinate to it, to any other Court, for trial or disposal. Thus, this provision confers comprehensive power on the Courts, to transfer any case, 'at any stage', either on an application by any party, or suo motu. However, it is well-settled that there is no cast iron formula, unanimously applicable to all the situations. One differential/distinctive circumstance, can change the decision of the transfer application. In the light of the same, it is incumbent upon the Court concerned to exercise this power, with due care, caution and circumspection.

Time and again, broad propositions have been laid down by the Courts, as to what may constitute a good ground for transfer. It is very true that generally, the Courts lean towards convenience of the wife, while considering the transfer application relating to the matrimonial dispute. However, it is not a thumb rule. Various other circumstances, spelt out from the material brought on record, ought to be taken into consideration. There are numerous circumstances, which are required to be considered, such like, the economic condition and earning capacity of the parties i.e. the husband and wife; social standing of the wife and her dependency upon her parents; if there is any child born from the estranged marriage, which spouse is having custody of the said child; capacity of the said spouse to raise the child; place of education of the child (if any), physical well-being of both the spouses; pending litigation between them, more particularly, the criminal case, if any;



the distance between the two places; availability of convenient commuting options, so on and so forth.

However, as observed aforesaid, no cast iron formula is there, of universal application, to the transfer applications. Each case has to be decided in its own factual background, taking into consideration the various circumstances, spelt out from the material brought on record. The Court, as such, has to do balancing of the convenience/inconvenience of both the sides. Very true, as observed aforesaid, the Courts lean towards convenience of the wife, but however, it is solely because of the reason that the wife is not denied justice, due to her inability to participate in the proceedings, instituted at a different place, considering the difficulty, either on account of financial or physical hardship. The most weighing factor, which is relevant in the present case, is about the custody of the growing daughter, being with the respondent/husband. Also, the applicant in the present case, is a well-educated and professionally qualified lady. She is financially independent, as she is working as Senior Corporate Agency Manager in HDFC Life Insurance Company Limited. Above it, also it is pertinent to mention that she is residing alone, in a rented premises, even though, her parents' place is at a distance of only 10-12 kms., from her workplace.

Unfortunately, matrimonial dispute had arisen between the parties. Though, counsel for the respondent has raised allegations about the applicant, having stepped out of marriage, to have an extra-marital relationship, but however, this Court is consciously keeping a restraint, not to take the same into consideration. Whatever may be the reason for dispute



between the parties, the same is not required to be appraised by this Court, while dealing with the transfer application. The same may be appraised by the Court concerned, where the petition under Section 10 of the Hindu Marriage Act, is pending.

So far as, details of the other litigation, pending between the parties to the lis is concerned, it is pertinent to mention that by and large, the litigation, which is pending in the Courts at Ludhiana, is an offshoot of the complaint under the Protection of Women from Domestic Violence Act, filed at the instance of the applicant. Be it noted that at the time of filing of first transfer application i.e. TA-507-2025, there was mention made about the custody petition having filed by the applicant and that she shall be seeking transfer of the same, very soon and subsequently, TA-1365-2025 was filed, thereby seeking transfer of the said petition. However, there was no mention made about the FIR, as detailed aforesaid, got registered at the instance of the applicant.

On query by this Court, it is disclosed by the applicant herself, that in the criminal case, charges have been framed, but her statement has not been recorded, as yet. No justifiable reason was disclosed, for not seeking transfer of the criminal case. This fact also ought to be taken into consideration.

Considering the factual position aforesaid, more particularly, considering the fact of respondent, facing trial in a criminal case at Zira, wherein, he is required to make appearance on each and every date of hearing, definitely he may be facing several challenges, while taking care of



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the minor daughter. This is the most weighing factor in the present case. The child in question is studying at Zira. As such, the inconvenience of the respondent, while pursuing the litigation, initiated at the instance of the applicant, do weigh in the mind of the Court, more particularly, when the applicant is herself a well-qualified and pretty confident lady, who has argued the case before this Court, in person. She is employed and also is financially independent to a great extent. Three cases, out of which, one is a criminal case, are already pending in the Courts at Zira, Distt. Ferozepur.

In view of the aforesaid factual position and considering the place of pending litigation and vouchsafing the interest of the child, born from the broken marriage, there is no justifiable reason coming forth, to accept the applications.

Hence, both the transfer applications are hereby dismissed.

29.01.2026

Himanshu Vats

**(ARCHANA PURI)
JUDGE**

Whether speaking/reasoned : Yes

Whether reportable : Yes/No