



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

Sr. No.116

TA-589-2025

Date of Decision: 26.02.2026

SUKHWINDER KAUR

....Applicant

Versus

DAVINDER SINGH

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Mr. M.S. Saini, Advocate
for the applicant.

Mr. Rahul Bhargava, Advocate
for the respondent.

ARCHANA PURI, J. (Oral)

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/1838/2023, titled '*Davinder Singh Vs. Sukhwinder Kaur*', filed by the respondent-husband, pending in the Family Court, Amritsar and she seeks transfer of the same to the Court of competent jurisdiction at Ludhiana.

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 the marriage between the parties to the lis, had taken place on



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14.11.2004. One living daughter is there from the said wedlock, who is about 16 years old and she is stated to be in the custody of the respondent/husband. Further, counsel submits that the applicant is not having any source of earning. Even, she has filed the petition under Section 125 Cr.P.C., which is pending in the Courts at Ludhiana. Therein, the respondent, at first instance, was proceeded against *ex parte*, but however, now he has joined the proceedings. Also, an FIR bearing No.32 dated 14.04.2024, under Sections 323, 498-A and 506 IPC, was got lodged by the applicant at Police Station Women Cell, Ludhiana and the same is pending investigation. The distance between the two places is stated to be about 55 kms.

On the other hand, counsel for the respondent, while making reference to the reply, submits that the only child born from the estranged marriage, is in the care and custody of the respondent. Further, it is submitted that the said child is a student of 10+1 class and is having medical stream. Since the respondent has to look after the said child, it is submitted that it shall be difficult for him also, to pursue the litigation, if so transferred to Ludhiana. Also, counsel submits that the petition under Section 125 Cr.P.C., was filed by the applicant, only as a counter-blast to the divorce petition, filed by the respondent, at first instance.

In view of the submissions aforesaid, it is pertinent to mention there are various factors, which are required to be taken into consideration, while considering the transfer application relating to the matrimonial dispute and thereupon, balance of convenience/inconvenience of the parties, has to be made by the Courts.



The most weighing factor, which is relevant in the present case is about one daughter born from the estranged marriage, who is about 16 years old and is a student of 10+1 class (medical stream), to be in the care and custody of the respondent. The fact of birth of the child from the marriage of the parties, ought to be taken into consideration, but simultaneously, the age of the said child, also has to be taken into consideration. No doubt, the Courts generally weigh towards the convenience of the spouse, who takes care of the child, but however, in the case in hand, the daughter is not of such an age, which requires the presence of the parent, all the time. Besides the said factor, it has also to be considered that the applicant is not having any source of earning. Even, she has filed the petition under Section 125 Cr.P.C., which is already pending in the Courts at Ludhiana and the same is being pursued by the respondent.

In view of the aforesaid fact situation, more particularly, taking into consideration the distance between the two places, the transfer application is allowed and the petition under Section 13 of the Hindu Marriage Act i.e. HMA/1838/2023, titled '*Davinder Singh Vs. Sukhwinder Kaur*', filed by the respondent-husband, stands transferred from the Family Court, Amritsar, to the Court of competent jurisdiction at Ludhiana. The requisite record of the aforesaid case be sent by the Family Court, Amritsar, to District and Sessions Judge, Ludhiana.

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



However, taking care of the convenience of the respondent also, more particulalry, considering the fact about the respondent having custody of the daughter, he 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 and pass any appropriate order, in the fitness of circumstances.

26.02.2026
Himanshu Vats

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No