

(2012) 04 P&H CK 0045

High Court Of Punjab And Haryana At Chandigarh

Case No: TA No. 99 of 2012

Navjot Kaur

APPELLANT

Vs

Kamaldeep Singh

RESPONDENT

Date of Decision: April 3, 2012

Acts Referred:

- Civil Procedure Code, 1908 (CPC) - Section 24
- Hindu Marriage Act, 1955 - Section 13

Hon'ble Judges: Jitendra Chauhan, J

Bench: Single Bench

Advocate: Vipin Mahajan, for the Appellant;

Final Decision: Allowed

Judgement

Jitendra Chauhan, J.

The applicant-wife has filed the present application u/s 24 of the Code of Civil Procedure, seeking transfer of the divorce petition titled as 'Kamaldeep Singh vs. Navjot Kaur', filed by the respondent-husband u/s 13 of the Hindu Marriage Act, 1955, (for short 'the Act') from the court of learned Additional District Judge, Hoshiapur, to the court of competent jurisdiction at Gurdaspur. Despite service, none appeared on behalf of the respondent. He is proceeded against ex-parte.

2. I have heard the learned counsel for the applicant and perused the case file.

3. From the perusal of case file, it emerges that the applicant, after having been ousted from the matrimonial home, is presently residing with her parents at Gurdaspur. There are averments of continuous beatings and harassment of the applicant by the respondent. She has no source of income and therefore, it would be difficult for her to attend the court proceedings at Hoshiapur on each and every date.

4. It is well settled principle of law that convenience of the wife is to be seen in the matters filed by the husband against the wife as held by the Hon'ble Supreme Court in the cases of [Sumita Singh Vs. Kumar Sanjay and Another](#), , Neelam Kanwar vs Devinder Singh Kanwar, 2001(1) M.L.J. 509 (SC), and [Mangla Patil Kale Vs. Sanjeev Kumar Kale](#),

5. Considering the fact that the applicant is presently residing at Gurdaspur; it would certainly be difficult for the wife, having no source of income to attend the court proceedings at Hoshiapur. In the petition filed by the husband, primarily the convenience of the wife is to be seen. In the present case, the balance of convenience is in favour of the applicant-wife and against the respondent-husband.

6. In view of the above, the instant transfer application is allowed. Petition u/s 13 of the Act titled as "Kamaldeep Singh vs. Navjot Kaur" is withdrawn from the Court of learned Additional District Judge, Hoshiapur and is transferred to the court of competent jurisdiction at Gurdaspur. The complete record pertaining to the case in question shall be sent by the trial Court at Hoshiapur, to the learned District Judge, Hoshiapur, within two weeks from the date of receipt of a copy of this Order. The learned District Judge, Gurdaspur will either dispose it of himself or entrust it to any Court of competent jurisdiction at Gurdaspur. The parties shall appear before the Court of District Judge, Gurdaspur, on 7.5.2012 at 10 AM.