



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

Sr. No.230

CRM-M-1605-2022 (O&M)

Date of decision : 06.03.2025

PRIYA KOHLI

..... Petitioner

VERSUS

STATE OF HARYANA AND ANOTHER

..... Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Dushyant Rana, Advocate for the petitioner.

Mr. Brijesh Sharma, AAG, Haryana.

Mr. Munish Gupta, Advocate and
Mr. N.S.Gill, Advocate for respondent No.2.

KIRTI SINGH, J. (Oral)

1. The present petition under Section 482 Cr.P.C. read with Section 407 Cr.P.C. has been filed seeking transfer of the trial CHI-110-220 titled as "State Vs. Ramit Kohli and another" pending in the Court of learned Judicial Magistrate Ist Class, Jagadhri in case FIR No.617 dated 26.10.2019 registered under Sections 498-A, 406, 323, 377, 34 of Indian Penal Code, 1860 at Police Station City Yamuna Nagar, District Yamuna Nagar as well as the complaint bearing No.COMA/126/2019 titled as "Priya Kohli Vs. Ramit Kohli etc. filed under Section 12 of Protection of Women from Domestic Violence Act, 2005 from the Court of learned JMIC, Jagadhari to the Courts of learned JMIC, Shahbad.



2. Learned counsel for the petitioner submits that marriage of petitioner was solemnized at Shahbad with the respondent No.2 on 10.10.2016 and she moved into her matrimonial home at Delhi. Out of this wedlock, a male child was born on 13.07.2017, who is currently in the care and custody of the petitioner. Respondent No.2 and his family allegedly used to harass and assault the petitioner due to which she started residing with her maternal uncle at Yamuna Nagar and presented a complaint to Superintendent of Police, Yamuna Nagar. However it is submitted that in the aforesaid complaint, she had specifically mentioned that her permanent parental address is of Shahbad. Further, even a petition under Section 125 Cr.P.C. was filed by the petitioner before the learned Family Court, Jagadhri, which was, on application by the respondent No.2, returned by the learned Family Court, for filing before the Court having territorial jurisdiction. It has further been argued that the petitioner is now residing with her minor son at her parental home in Shahbad and it is difficult for her to attend trial at Yamuna Nagar, which is approximately at 45 kilometers distance from District Kurukshetra. He further submits that a complaint under Section 12 of Domestic Violence Act bearing No.COMA/126/2019 is also pending before JMIC, Jagadhri.

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 respondent No.2 has opposed the prayer made by learned counsel for the petitioner. He submits that the present petition has been filed only to harass respondent No.2.

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. Vide order dated 24.02.2025, parties were referred to the Mediation and Conciliation Centre of this Court for exploring the possibility of an amicable settlement, but the same was unsuccessful as per the report of the Mediator dated 03.03.2025.

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

8. 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 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.

9. 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 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.”

10. 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-110-220 and connected proceedings arising out of FIR No.617



dated 26.10.2019 registered under Sections 498-A, 406, 323, 377, 34 of Indian Penal Code, 1860 at Police Station City Yamuna Nagar, District Yamuna Nagar pending in the Court of learned Judicial Magistrate 1st Class, Jagadhri and complaint bearing No.COMA/126/2019 titled as Priya Kohli Vs. Ramit Kohli etc. is ordered to be transferred to the jurisdiction of District and Sessions Judge, Kurukshetra. The District Judge, Yamuna Nagar 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

06.03.2025

Kavita

Whether speaking / reasoned

Yes/No

Whether Reportable

Yes/No