



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

**CRM-M-20248-2025 (O&M)
Date of Decision: 01.05.2025**

Kamaljit

....Petitioner(s)

Versus

Talvinder Rani

....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Kanwalvir Singh Kang, Advocate, for the petitioner.

JASGURPREET SINGH PURI, J.

1. The present petition has been filed under Section 447 read with Section 528 of BNSS for transfer of petition under Section 125 of the Code of Criminal Procedure from the Court of learned Principal Judge, Family Court, SBS Nagar to the Court of competent jurisdiction in any other District.

2. Learned counsel appearing on behalf of the petitioner submitted that the respondent-wife has filed a petition under Section 125 of the Code of Criminal Procedure for grant of maintenance against the petitioner-husband in the year 2019. He submitted that the grievance of the petitioner-husband is that the respondent-wife is a practicing Advocate at SBS Nagar where the petition filed by her under Section 125 of the Code of Criminal Procedure is pending and the petitioner is deprived of his rights to be represented through the counsel of his choice because no counsel from the aforesaid Courts where the respondent-wife is practicing is willing to take up



the case of the petitioner and he had to engage an outside counsel due to which prejudice has been caused to him and therefore, the aforesaid petition which is pending at SBS Nagar may be transferred to any other place outside the District.

3. Learned counsel submitted that the marriage between the parties was solemnized on 17.06.2009 at SBS Nagar and out of the wedlock a female child was also born on 18.10.2010 but a matrimonial dispute arose between the parties and they got separated on 14.10.2011. Apart from the present petition under Section 125 Cr.P.C, a petition under Section 13 of the Hindu Marriage Act for dissolution of marriage was filed by the petitioner against the respondent-wife which has however been dismissed on 06.03.2025 vide Annexure A-2 and the counter claim filed by the respondent-wife has been allowed. He submitted that the respondent-wife being a practicing Advocate in SBS Nagar where the petition under Section 125 Cr.P.C is pending is an influential person and the petitioner-husband could not engage an Advocate for his representation and therefore, he had to engage an outside counsel from District Ropar because of the influence of the respondent-wife in the District Bar Association. He further submitted that the influence of the respondent-wife can be ascertained from the fact that the respondent-wife has served as a Member of National Lok Adalat alongwith the learned Additional Sessions Judge before whom the petition under Section 125 Cr.P.C is pending and she has regular interaction with the Hon'ble Judges and office bearers of the District Bar Association which casts serious doubt on the impartiality in the adjudication because the present petition is a personal case of the respondent-wife. He further submitted that apart from the above, the respondent-wife was also



empaneled as Legal Aid Counsel at District SBS Nagar which would show that she is an influential person and therefore, it can be safely inferred that the respondent-wife is a person of influence at least at District Court, SBS Nagar but the petitioner cannot match the influence of the respondent and therefore, there is a possibility of petitioner being denied of fair trial and therefore, the petition be transferred outside the District SBS Nagar to any other District.

4. Learned counsel also submitted that vide Annexure A-2, the petition filed by the petitioner under Section 13 of the Hindu Marriage Act against the respondent-wife was dismissed by the same learned Judge who is Principal Judge, Family Court before whom the petition under Section 125 Cr.P.C is pending and the aforesaid Presiding Officer has passed the judgment in favour of the respondent-wife under Section 13 of the Hindu Marriage Act against all tenets of law and contrary to the judgments of Hon'ble Supreme Court and this is also one of the grounds for transfer of the petition which is pending under Section 125 Cr.P.C.

5. I have heard the learned counsel for the petitioner.

6. The petitioner who is the husband is seeking transfer of the proceedings under Section 125 Cr.P.C which are pending against him at District SBS Nagar before the learned Principal Judge, Family Court, SBS Nagar. Broadly three grounds have been raised by the learned counsel for the petitioner for transfer. Firstly, the respondent-wife is a practicing Advocate at SBS Nagar and exercises influence at the District Bar Association and other places within the District and therefore, no counsel is ready and willing to represent the petitioner in the Court from the Bar. Secondly, there is a serious doubt of impartiality in the adjudication of the



personal case of the respondent-wife because she has served as a Member of the National Lok Adalat with the Presiding Officer before whom the case is pending. Thirdly, the same Presiding Officer before whom the petition under Section 125 Cr.P.C is pending dismissed the divorce petition filed by the petitioner under Section 13 of the Hindu Marriage Act and allowed the counter claim of the respondent-wife vide Annexure A-2 on 06.03.2025.

7. It will be necessary to cull out the facts in a sequence manner on the basis of the documents on record in the present case for more clarity.

(i) The marriage between the parties took place on 17.06.2009 and a female child was born on 18.10.2010. Separation took place on 14.10.2011.

(ii) On 08.01.2018, the petitioner-husband filed a petition under Section 13 of the Hindu Marriage Act against the respondent-wife to which the respondent-wife filed a counter claim on 02.05.2018 at SBS Nagar.

(iii) The respondent-wife filed a petition under Section 125 Cr.P.C against the petitioner-husband at SBS Nagar on 10/13.05.2019 vide Annexure A-3.

(iv) On 06.03.2025, the learned Principal Judge, Family Court, SBS Nagar dismissed the divorce petition filed by the petitioner-husband and allowed the counter claim filed by the respondent-wife.

(v) On 04.04.2025 i.e. just before one month, the present petition has been filed for transfer of the petition which is pending under Section 125 Cr.P.C.

(vi) The learned Presiding Officer of both the petitions



i.e. the divorce petition which has been dismissed and the petition under Section 125 Cr.P.C which is sought to be transferred is the same.

8. Taking up the first ground raised by the learned counsel for the petitioner, it was contended that the respondent-wife is a practicing Advocate at SBS Nagar and she exercises influence in the Bar and nobody is willing to accept the case of the present petitioner from this District and therefore, he had to engage a counsel from Ropar District.

9. The petitioner has also annexed the interlocutory orders which were passed in the petition under Section 125 Cr.P.C as Annexure A-4 starting from 13.05.2019 when the petition under Section 125 Cr.P.C was presented till 06.03.2025.

10. A perusal of the number of interlocutory orders which have been passed for almost 6 years would show that the petitioner-husband had always been represented by a counsel and for the first time the counsel for the petitioner who may have been engaged from District Ropar which is a neighbouring District appeared on 29.05.2019 and filed his power of attorney and thereafter for all those number of years, he had been constantly appearing and representing the petitioner before the learned Judge, Family Court except for a few dates and except for those days where his proxy counsel had appeared. He had always represented the petitioner before the learned Judge, Family Court even till the last order as attached by the learned counsel for the petitioner dated 06.03.2025 wherein the respondent-wife who had appeared as PW2 was directed to be cross examined and thereafter she was cross examined by the counsel for the petitioner-husband.

11. Apart from the above, a perusal of the judgment passed in a



petition filed by the petitioner under Section 13 of the Hindu Marriage Act for grant of decree of divorce which was dismissed vide Annexure A-2 on the aforesaid date i.e on 06.03.2025 would show that the petitioner-husband was also represented in that case as well. Therefore, it is very clear that the petitioner has not been denied the right of being represented through a counsel. SBS Nagar where the present petition is pending and District Ropar from where according to the learned counsel for the petitioner, he had to engage a counsel are neighbouring Districts and he had already been represented till 06.03.2025 when he cross examined the respondent-wife. Therefore, the argument which has been raised by the learned counsel for the petitioner that he could not engage a counsel from District SBS Nagar because of the fact that the respondent-wife is a practicing Advocate is unsustainable and unfounded since no prejudice is caused to the petitioner. For six long years the petitioner was represented through a counsel in two proceedings and suddenly he has now raised a grievance that he has not been represented through a counsel from the District where the cases are pending and therefore, such a ground taken by the petitioner is unsustainable.

12. So far as the second argument raised by the learned counsel for the petitioner that there is a likelihood that the respondent-wife who is a practicing Advocate at SBS Nagar will exercise influence and doubts have been expressed with regard to the impartiality in the adjudication process is concerned, the aforesaid date of 06.03.2025 is very crucial. On 06.03.2025 the petition filed by the petitioner under Section 13 of the Hindu Marriage Act was dismissed vide Annexure A-2 and on the same date, the counsel for the petitioner-husband in the proceedings under Section 125 Cr.P.C had



cross examined the respondent-wife. The Presiding Officer in both the proceedings was the same. Within a period of one month from the date of dismissal of the aforesaid petition under Section 13 of the Hindu Marriage Act, the petitioner filed the present petition for transfer of the petition under Section 125 Cr.P.C which is still pending. Taking up the ground of bias it was the case of the learned counsel for the petitioner that the respondent-wife being an influential person as she is a practicing Advocate, there are serious doubts that the adjudication process will not be impartial and in order to substantiate his argument, he submitted that the respondent-wife served as a Member of the National Lok Adalat alongwith the learned Presiding Officer before whom the case is pending and also she has regular interaction with Hon'ble Judges and office bearers of the District Bar Association and also being a Legal Aid Counsel in the same Court an inference can be drawn that since the respondent-wife is an influential person and there is a possibility of denial of fair trial. The aforesaid argument of the learned counsel for the petitioner is also again incorporated in the grounds of the present petition as well. Para No.10, 11 and 12 are reproduced as under:-

“10. That the influence of the respondent can be well ascertained from the fact that the respondent had served as Member, Lok Adalat alongwith Hon'ble Additional District Judge of SBS Nagar. The opportunity to serve for such prestigious responsibility entails regular interactions with Hon'ble judges and office Bearers of the District Bar Association, which casts serious doubt on the impartiality in the adjudication in her personal case. Further, Respondent has also remained empaneled as Counsel of Legal Aid at District SBS Nagar. This fact has been



*admitted by the Respondent in her cross examination dated 08.02.2024. Copy of the same is annexed herewith as **Annexure A-5.***

11. That in the present case under Section 125 Cr.P.C, the petitioner has not been able to engage any local counsel at Nawanshahr (SBS Nagar), owing to influence of respondent with the local Bar Association. The petitioner has engaged the services of Sh. Amandeep Singh Baghri, Advocate from Ropar Court to defend his case who has also now started showing reluctance to travel on each date from Ropar to SBS Nagar owing to his own private practice at Ropar.

12. That based on the above submissions, it is really not possible for the Court of SBS Nagar (Nawanshahr) to decide the controversy with impartiality. The fact remains that the Respondent is a lady and practicing Advocate at SBS Nagar having remained Member National Lok Adalat and Legal Aid Counsel in the same court, it can safely be inferred that Respondent is a person of influence, at least at District Court, SBS Nagar. Therefore, the petitioner is not able to match the influence of the Respondent. The possibility of Petitioner being denied fair trial therefore, cannot be ruled out. In such a situation, it would be in the interest of justice to order transfer of the case outside SBS Nagar to any other court of Competent Jurisdiction in any other District.”

13. A perusal of the aforesaid averments being made by the petitioner and also argued by the learned counsel for the petitioner would show that it is the case of the petitioner that since the respondent-wife is a practicing Advocate at SBS Nagar an Advocate and served as a Member of the National Lok Adalat and she is a Legal Aid Counsel, she can exercise



influence over the Presiding Officer and especially the Presiding Officer where the petition under Section 125 Cr.P.C is pending and the petition under Section 13 of the Hindu Marriage Act which was decided against the petitioner. This Court is of the considered view that such kind of allegations made by the petitioner on the ground that the respondent-wife was also a Member of the National Lok Adalat and a Legal Aid Counsel cannot become a ground for transfer of any petition. Impartiality in the adjudication process cannot be inferred because of the aforesaid reasons. The mere fact that the respondent-wife remained as a Member of the National Lok Adalat and as a Legal Aid Counsel and that the petitioner can be denied a fair trial is absolutely misconceived, unfounded and unsustainable. The petitioner has in fact tried to level allegations against the learned Presiding Officer on the aforesaid ground which cannot be permitted. Apparently, it appears that the petitioner had been appearing through a counsel before the same learned Presiding Officer in both the cases i.e under Section 13 of the Hindu Marriage Act and under Section 125 of the Code of Criminal Procedure for six long years but when his petition under Section 13 of the Hindu Marriage Act was dismissed and the counter claim of the respondent-wife was allowed on 06.03.2025, then because of that reason he filed the present petition immediately for transfer of the case because the learned Presiding Officer is the same Officer before whom the petition under Section 125 Cr.P.C is pending. This Court is of the considered view that such kind of inference cannot be drawn that once the petition of the petitioner under Section 13 of the Hindu Marriage Act was dismissed, then there would be an impartiality by the learned Presiding Officer. Such kind of plea being taken by the petitioner categorically in his petition is highly condemnable and deprecated.



14. Third ground raised by the learned counsel for the petitioner was that since the same Presiding Officer has dismissed the petition under Section 13 of the Hindu Marriage Act on 06.03.2025 and the dismissal is on erroneous ground and is against the law laid down by Hon'ble Supreme Court, he cannot expect fair trial with regard to petition under Section 125 Cr.P.C. Such a ground taken by the learned counsel for the petitioner seeking transfer of the case is also not only frivolous but also unsustainable and therefore, the same has to be outrightly rejected.

15. In view of the aforesaid facts and circumstances, no ground is made out for transfer of the petition which is pending under Section 125 Cr.P.C.

16. Consequently, the present petition is hereby dismissed.

01.05.2025

rakesh

(JASGURPREET SINGH PURI)

JUDGE

Whether speaking : Yes/No
Whether reportable : Yes/No