



TA-1431-2024 (O&M)

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

Sr. No.112

**TA-1431-2024 (O&M)
Date of Decision: 08.07.2025**

RINKI CHAUDHARY

....Applicant

Versus

GAGANDEEP

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Mr. Sandeep Goyal, Advocate
for the applicant.

Mr. B.S. Mittal, Advocate
for the respondent.

ARCHANA PURI, J. (Oral)

The applicant-wife has filed the present application for seeking transfer of the petition under Section 9 of the Hindu Marriage Act i.e. HMA/663/2024, titled '*Gagandeep Vs. Rinki Chaudhary*', filed by the respondent-husband, pending in the Family Court, Sirsa and she seeks transfer of the same to the Court of competent jurisdiction at Assandh, District Karnal.

In pursuance of notice issued, the respondent made appearance through counsel and filed reply.



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The 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 09.10.2022. One son was born from the said wedlock, who is about 2 years old. Presently, the respondent is having the custody of the said child. Also, it is submitted that the son was forcibly taken away by the the respondent on 19.06.2024, regarding which an FIR bearing No.24 dated 17.09.2024, was got lodged under Sections 323, 406, 498-A and 506 IPC, by the applicant at Women Police Station Assandh, District Karnal. In the said FIR, challan has since been presented, though the respondent has yet not made appearance. Further, the counsel submits that the applicant is not having any source of income and is dependent upon her parental family. In the given circumstances, it is submitted that it is difficult for the applicant, to commute a distance of about 225 kilometres, to defend the petition under Section 9 of the Hindu Marriage Act.

On the other hand, the counsel for the respondent, while making reference to the reply, has submitted that the applicant is suppressing the material facts, which has bearing on decision of the transfer application. In fact, it is submitted that the applicant is an educated lady, having B.D.S. Degree, which fact has been suppressed by her. Moreover, the son born from the wedlock of the parties, who is about 2 years old, is in the custody of the respondent. In the given circumstances, it is submitted that it shall become inconvenient for the respondent also, to pursue the petition under Section 9 of the Hindu Marriage Act, if it stands so transferred.



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In view of the submissions aforesaid, it is pertinent to mention that even though, the Courts generally consider the convenience of wife, while dealing with the transfer applications relating to the matrimonial disputes, but however, it is not a thumb rule. Various other circumstances, spelt out from the material brought on record, also have to be taken into consideration and then some balancing of convenience/inconvenience of both the sides has to be made. In the case in hand, one son born from the wedlock of the parties to the lis, is in the care and custody of the respondent. Even though, it is submitted that the child was forcibly and illegally taken away by the respondent on 19.06.2024 and FIR was got registered, copy whereof is Annexure P-1, but however, on the asking of the Court, the counsel for the applicant was not able to answer the query about addition of any further offences having made or not. Even, the copy of the challan is not brought on record. On further query by the Court, it is submitted by the counsel for the respondent that no guardianship petition has yet been filed.

Considering the aforesaid, also a query was put to the counsel for the applicant about the educational qualification of the applicant and he has admitted that the applicant is having a professional B.D.S. degree, though, he submits that she is not working anywhere. May it be so, each transfer application has to be adjudicated, on its own factual background. One significant differential circumstance can alter the decision of the transfer application. Though, the respondent allegedly had taken away the child forcibly, but no guardianship petition has yet been filed by the applicant. Even, the applicant is well-educated and a professional degree-holder. This fact of her carrying a professional degree, was not disclosed in



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the transfer application.

In view of the aforesaid fact situation, it is just and expedient not to accept the transfer application. Hence the transfer application is hereby dismissed.

Pending civil miscellaneous application also stands disposed of.

08.07.2025
Himanshu

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No