



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

Sr. No.115

TA-551-2025

Date of Decision: 08.09.2025

PUSHPA VATI @ PUSHPA

...Applicant

Versus

PAWAN KUMAR SHARMA

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Mr. Rajesh Lamba, Advocate
for the applicant.

Mr. Sandeep Kotla, Advocate
for the respondent.

ARCHANA PURI, J. (Oral)

The applicant-maternal grandmother of the subject child, has filed the present application for seeking transfer of the guardianship petition GW/21/2024, titled '*Pawan Kumar Vs. Pushpa*', filed by the respondent (father of the child), pending in the Family Court (Camp Court) Firozpur Jhirka, District Nuh, and she seeks transfer of the same to the Court of competent jurisdiction at Gurugram.

Upon notice, 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 daughter of the applicant was married to the respondent- Pawan Kumar Sharma and from their wedlock, one son was born on 01.12.2015. The said child was born in Gurugram and copy of his birth certificate is Annexure P-2. On account of the matrimonial dispute, the

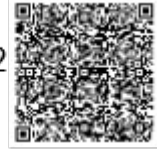


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daughter of the applicant, as well as the respondent indulged into various rounds of litigation, as a result whereof, the daughter of the applicant had committed suicide. Even, FIR bearing No.26 dated 14.02.2024 was got registered at Police Station Pinangwa, District Nuh and the respondent is facing trial relating to the same. Besides the same, also it is submitted that the applicant is residing in Gurugram and the child, who is 10 years old, is studying in G.A.V. International School, Gurugram. The distance between the two places is stated to be about 60 kilometres. To commute such a distance, in order to make appearance before the Courts at Nuh, shall be too taxing for the applicant.

Even, counsel for the applicant has made reference to various documents placed on record, thereby showing about the subject child to be born and studying at Gurugram and also substantiating about the applicant to be residing in a rented premises at Gurugram. Besides the same, also counsel for the applicant has made reference to the orders passed by Hon'ble Supreme Court and also to the copy of the Aadhar Card, thereby depicting about the present address of the applicant-Pushpa Vati @ Pushpa, in Gurugram. In the given circumstances, it is prayed that the guardian petition be transferred to Gurugram.

On the other hand, counsel for the respondent, while making reference to the reply, submits that the present transfer application has been filed, as a tool of harassment. The subject child is not residing at Gurugram and in fact, he is residing with his maternal grandmother i.e. the applicant, as well as his maternal uncle, at Nuh. The transfer of the case is sought to Gurugram, only with a purpose to cause harassment to the respondent and this is taking advantage of the provision of transfer. In this regard, counsel



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has placed reliance upon the judgment passed by Hon'ble Supreme Court in the case titled '*Anindita Das Vs. Srijit Das*', (2006) 9 SCC 197, to emphasize that the advantage of leniency shall not to given by the Courts, while considering the transfer application.

In view of the submissions aforesaid, it is pertinent to mention that even though, generally the Courts lean towards convenience of woman, while considering transfer application relating to matrimonial dispute, but however, it is not a thumb rule. Various other circumstances, spelt out from the material brought on record, ought to be taken into consideration. Each case has to be appraised in its own factual background.

In the case in hand, the daughter of the applicant was married to the respondent and from this wedlock, one son was born on 01.12.2015. However, on account of the matrimonial dispute, the daughter of the applicant, as well as the respondent indulged in various rounds of litigation. The deceased daughter of the applicant, namely, Sunny, had filed the Transfer Petition (Civil) bearing No.218 of 2017, before Hon'ble Supreme Court. However, during the pendency of the same, with the intervention of Mediator, compromise was effected and both the deceased daughter of the applicant, as well as the respondent, decided to reside together, as a result whereof, both the proceedings, relating to which the petition was filed, were quashed, vide order dated 14.03.2018, copy whereof is Annexure P-4. Besides the same, on the asking of the respondent-Pawan Kumar Sharma, the petition filed for seeking divorce, which was pending in Family Court, Alwar (Rajasthan), was dismissed, in view of the settlement reached between the parties. However, thereupon IA-41701-2018 was filed in the Transfer Petition (Civil) bearing No.218 of 2017, wherein order was passed



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by Hon'ble Supreme Court on 23.04.2018, whereby the aforesaid order dated 14.03.2018, with regard to arrival of compromise was recalled and the transfer petition was restored at its original number. Besides the same, even the divorce petition between the parties i.e. HMA/38/584/1 of 2015, titled '*Pawan Kumar Sharma, Vs. Sunny*', which was earlier pending at Family Court, Alwar (Rajasthan), was restored and it was transferred to the Court of District Judge, Family Court, Gurugram.

On query by this Court, it is submitted that Sunny, deceased daughter of the applicant, was residing in Gurugram, on account of which, the divorce petition was transferred to Gurugram. The aforesaid fact is not disputed by the counsel for the respondent. Not only this, even copy of the birth certificate of the subject child, is coming on record as Annexure P-2, which reveals about the birth of the child, to have taken place on 01.12.2015, in Gurugram. Also, the said child is studying in G.A.V. International School, Gurugram and copy of the fee receipt has also been placed on record as Annexure P-6. To establish about the applicant to be residing in Gurugram, copy of rent deed has come on record as Annexure P-5. In the counter-reply, copy of Aadhar Card of the applicant, has also come on record, which also reveals about her to be residing at the same address, relating to which, the rent agreement was executed. From the said material brought forth, it is evident that the applicant, as well as the subject child, are residing in Gurugram.

Besides the aforesaid, also it is pertinent to mention that the respondent is facing trial in criminal case, relating to Sections 323, 406, 498-A, 506 and 509 IPC, in the Courts at Gurugram. Though, counsel for the respondent had laid emphasis upon the daughter of the applicant to have



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died, but even if it be so, the criminal trial can still continue under the aforesaid sections, before the Courts at Gurugram.

Considering the aforesaid circumstances, definitely inconvenience must be caused to the child, while travelling a distance of about 60 kilometres, in case the guardian petition remains pending at Firozpur Jhirka, District Nuh. Though, counsel for the respondent has relied upon the judgment passed by Hon'ble Supreme Court, but however, considering the facts and circumstances aforesaid, it is evident that genuine reasons are coming forth, for acceptance of the transfer application in the case in hand, more particularly, while considering the interest of the minor child, who is living with his maternal grandmother, at present, in Gurugram.

In view of the aforesaid fact situation, the transfer application is allowed and the guardianship petition GW/21/2024, titled '*Pawan Kumar Vs. Pushpa*', filed by the respondent (father of the child), stands transferred from the Family Court (Camp Court) Firozpur Jhirka, District Nuh, to the Court of competent jurisdiction at Gurugram. The requisite record of the aforesaid case be sent by the Family Court (Camp Court) Firozpur Jhirka, to the District and Sessions Judge, Gurugram.

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

08.09.2025

Himanshu

**(ARCHANA PURI)
JUDGE**

Whether speaking/reasoned : Yes

Whether reportable : Yes/No