



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

Sr. No.107

TA-1592-2023

Date of Decision: 10.07.2025

HEENA**....Applicant****Versus****SUMIT SEHGAL****.....Respondent****CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI**

Present:- Mr. G.C. Shahpuri, Advocate
for the applicant.

Mr. Abhinav Gupta, Advocate
for the respondent.

ARCHANA PURI, J. (Oral)

The applicant-wife has filed the present application for seeking transfer of the petition under Section 13 of the Hindu Marriage Act, titled '*Sumit Sehgal Vs. Heena*' (Annexure P-3), filed by the respondent-husband, pending in the Family Court, Chandigarh and she seeks transfer of the same to the Court of competent jurisdiction at Yamuna Nagar at Jagadhri.

Upon notice, the respondent made appearance through counsel and filed reply.

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 12.11.2017, but no child was born from the said wedlock. However, on account of the matrimonial dispute, the parties are residing separate. The applicant had filed a complaint before Women Police Station, Yamuna Nagar, about the atrocities committed upon her, at the instance of the



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respondent and the same is still pending. The applicant is not having any source of earning. She has filed the petition under the Protection of Women from Domestic Violence Act, which is pending in the Courts at Yamuna Nagar, at Jagadhri. Also, it is submitted that in the said petition, interim order was passed by learned Family Court, whereby it was held that the applicant is entitled to live in the matrimonial home, since she is willing to live with the respondent. Copy of the order is Annexure P-2. However, the said order was not complied with. Another application was filed by the applicant for issuance of direction to the protection officer, to provide residence to the applicant and the said application was allowed, vide order dated 22.03.2023. However, the said order was challenged by way of filing civil revision i.e. CR-3185-2024 and therein, despite the statement made, the respondent had not complied the order.

Further, it is submitted by the counsel for the applicant that petition under Section 125 Cr.P.C. was also filed and therein, interim maintenance was fixed to the extent of Rs.5,000/- per month. However, the said maintenance is also not being paid by the respondent. Also, it is submitted by the counsel for the applicant that earlier, the applicant had filed the transfer application i.e. TA-665-2021, wherein, the respondent had taken a specific stand that the applicant was still residing at Chandigarh and at the relevant time, she was pursuing her computer course in Chandigarh. The rent agreement, relating to her residence at Chandigarh, was for a period of 11 months i.e. upto 30.04.2022. In the light of the same, the transfer application previously filed, was dismissed. It is submitted that it was only a temporary residence, on account of computer course, being pursued by the applicant. Now, the applicant is residing at her parents' place. Further, it is



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submitted that the respondent is making appearance, in the three cases i.e. the petition under the Protection of Women from Domestic Violence Act, the maintenance petition and the petition under Section 9 of the Hindu Marriage Act, which are pending in the Courts at Yamuna Nagar.

On the other hand, the counsel for the respondent has resisted the claim for transfer of the divorce petition. In fact, while making reference to the reply filed, it is submitted that the applicant has suppressed the material facts from the Court. She had suppressed about her residence in the previous transfer application, as a result whereof, it was dismissed by this Court vide order dated 19.04.2022, copy whereof is Annexure P-4. As such, a prayer has been made for dismissal of the present transfer application also.

In view of the aforesaid submissions, the question arises, as to whether the divorce petition ought to be transferred or not.

Section 24 of the CPC had conferred comprehensive powers on the Courts to transfer suits, appeals or other proceedings, at any stage *‘either on an application by any party or suo motu’*. No doubt, it is a discretionary power to transfer the cases, but however, such power has to be exercised with due care, caution and circumspection. Time and again, the Courts have laid down the broad propositions, as to what may constitute a ground for transfer of the case. Few of them are to consider the financial affluence of either of the parties; the social strata of the spouses and the behavioral pattern; their stand of life and antecedents prior to marriage and subsequent thereto, as well as circumstances of either of the parties, in eking out their livelihood and under whose protected umbrella, they are seeking their sustenance to life. Besides the aforesaid, others are balance of convenience/inconvenience to the parties concerned or the witnesses or;



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convenience/inconvenience relating to any place of trial, having regard to the nature of evidence; reasonable apprehension in the mind of the litigant that he may not get justice in the court, in which the suit is pending. But anyhow, the said factors are only illustrative in nature and by no means, can be treated as exhaustive. No straight-jacket formula can be applied for the exercise of power of transfer of the case by the Court concerned. However, the underlying thread while exercising the power under Section 24 CPC is to take into consideration if ‘**ends of justice**’ demand the transfer of the suit/pending proceedings. Considering the same, there has to be some circumstantial flexibility. Each case has to be considered in its own background and distinction of one significant detail, may alter decision of the transfer application. Of course, the Court also ought to consider the change of circumstances, in the light of the transfer application having been filed again.

Now adverting to the case in hand, it is pertinent to mention that generally, the Courts lean towards the convenience of wife, in case of transfer application relating to the matrimonial dispute. However, it is not a thumb rule. Various other circumstances, which surface from the material brought on record, ought to be taken into consideration. Throughout, much emphasis has been laid upon the earlier transfer application, filed by the applicant, having been dismissed, vide order dated 19.04.2022. Undisputedly, the earlier transfer application was filed to seek transfer of the divorce petition and the same was dismissed vide the order aforesaid. The mention thereof is made in the application itself. It was dismissed, at that time, as it was observed about the applicant to be residing at Chandigarh. Close perusal of said order, Annexure P-4, reveals that



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though, the application was dismissed, but there is nothing coming on record about the reason of the applicant staying at Chandigarh. In fact, the counsel for the applicant, while making reference to the application, has categorically stated that the applicant was pursuing the computer course in Chandigarh, at the relevant time and the rent agreement was for a period of 11 months i.e. up to 30.04.2022. The certificate relating to pursuing of the computer course has also been placed on record. In the given circumstances, though, the transfer application, at first instance was dismissed, but however, now it is again the specific version that the applicant is staying at her parental place at Yamuna Nagar. There is change in circumstances, which ought to be taken into consideration. Though, it is stated that there was intentional suppression of the residence, but however, this Court is consciously not making reference to the same, as it may hamper the interest of either party, in the eventuality of any further proceedings being conducted on this basis.

Not only this, one also has to take into consideration that there are other three cases, arising from the matrimonial dispute, which are pending in the Courts at Yamuna Nagar. In the petition under the Protection of Women from Domestic Violence Act, interim order, with regard to providing of the residence was ordered by the Family Court and the same was not complied with. Even, an application for issuance of direction to the protection officer was filed, to provide the residence. Even, such direction was given to the protection officer, but till date, compliance of the said order has not been made. Besides the same, interim maintenance is alleged to have been awarded to the applicant, to the extent of Rs.5,000/- per month, which fact is not disputed by the counsel for the respondent. Also,



no maintenance is stated to have been paid to the applicant. These are also the relevant factors, which ought to be taken into consideration.

In view of the aforesaid fact situation, it is just and expedient to transfer the divorce petition. Hence, the transfer application is allowed and the petition under Section 13 of the Hindu Marriage Act, titled '*Sumit Sehgal Vs. Heena*' (Annexure P-3), filed by the respondent-husband, stands transferred from the Family Court, Chandigarh, to the Court of competent jurisdiction at Yamuna Nagar at Jagadhri. The requisite record of the aforesaid case be sent by the Family Court, Chandigarh, to the District and Sessions Judge, Yamuna Nagar.

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

10.07.2025

Himanshu

**(ARCHANA PURI)
JUDGE**

Whether speaking/reasoned : Yes

Whether reportable : Yes