



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

112

TA-209-2025(O&M)

Date of Decision: September 15, 2025

Aditya Trivedi

...Applicant

Versus

Priyanka Gaur

...Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Vineet Jain & Ms. Aasma Sachdeva, Advocate
for the applicant.

Mr.Yash Yadav, Advocate
for the respondent.

ARCHANA PURI, J.

The applicant-husband has filed the present application for seeking transfer of the petition under Section 13(1) (ia) (ib) of the Hindu Marriage Act, filed by him, bearing No.HMA-1021-2024, titled 'Aditya Trivedi vs. Priyanka Gaur', pending in the Family Court, Faridabad and he seeks transfer of the same to the Court of competent jurisdiction at Gurugram.

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

Counsel for the parties heard.

At the very outset, it is submitted by learned counsel for the

applicant that marriage of the applicant with the respondent had taken place on 12.11.2011 and one son was born from the said wedlock on 11.01.2014, who is currently 10 years old. However, on account of matrimonial dispute, the parties are residing separate. Also, it is submitted that the respondent is a qualified MCA (Master in Computer Applications) by profession and was working as Product Executive at FLY Mobiles Gurugram, before marriage. But however, she left the job, after about one month of the marriage, on the pretext that now she is married and wants to take a break from working.

Furthermore, counsel for the applicant, while making reference to the contents of the application submitted that the behaviour of the respondent was very erratic, soon after the marriage. She questioned the conduct of the applicant, at every stage, whatever, he had been doing. As a result, the applicant, in the month of August 2018, shifted to his sister's house in Gurugram. However, thereupon also, the family of the respondent including his brother, uncles and aunts, visited the house of the applicant's sister and extended threats to the applicant. It is submitted that marriage has irretrievably broken down, even before the applicant moved out of the house at Faridabad.

It is further submitted that the respondent has illicit intention, only to harass the applicant. She had filed a complaint under Section 498-A IPC and time and again, the applicant was called to the police station and was humiliated, at the instance of the respondent side. As a result, the health of the applicant deteriorated and he had suffered acute middle cerebral artery stroke because of constant stress, harassment, abuses and depression, to which he was subjected by the respondent. The applicant had been on

medication, ever since he suffered MCA stroke.

Further, it is submitted that the parties are residing separate since August 2018. In the month of May 2024, the applicant was again diagnosed with MCA territory, thrombolysed with TNK, left MCA occlusion, LV Dysfunction, LV Clot, middle cerebral artery stroke, wherein, the applicant had continuously been suffering from various ailments of paralysis, stress, panic attacks, anxiety attacks, high blood pressure, problem with speaking and walking, due to which, grave inconvenience was caused to the applicant, by regularly appearing before the Court. Even, he had attended mediation as referred by Family Court, Faridabad, in the divorce petition and he also attended various mediation sessions, but he was emotionally, psychologically and physically abused by the respondent and her family.

On this account, it is submitted that it is difficult for the applicant to pursue the divorce petition, pending in the Courts at Faridabad. On account of medical ailment, it is difficult for the applicant to travel to Faridabad to pursue the said litigation and precisely, on this account, a prayer for acceptance of the transfer application has been made.

On the other hand, learned counsel for the respondent refuted the claim of the applicant. The fact of marriage as well as birth of the child, as such, has not been disputed. However, it is submitted that earlier also, the applicant had filed a petition for grant of divorce in the year 2018 before Family Court, Moradabad, but the same was filed, in order to harass the respondent, which is evident from the fact that upon appearance of the respondent in the said petition, the applicant had stopped pursuing the same and the said petition was dismissed in default vide order dated 26.11.2019.

Further, it is submitted that the applicant is able bodied person and working as Assistant Vice President in Max Life Insurance and earning Rs.3.75 lakh per month. He had himself chose to file the divorce petition in the Courts at Faridabad and now, he is seeking transfer of the same, while taking false plea of illness, which needless to say, is common at this age, keeping in view the lifestyle. The distance between the two places is stated to be 40 kms., which can easily be covered by the applicant, who owns two luxury cars i.e. one BMW and one XUV-700 and he is also having a driver for the same.

In the given circumstances, learned counsel for the respondent has also drawn the attention of the Court to the reply, wherein, constrained circumstances, with regard to taking care of the father as well as mother of the respondent is pointed out.

In view of the rival submission aforesaid, it is pertinent to note that even though, the Courts generally lean towards the convenience of the wife, while considering the transfer applications, relating to the matrimonial dispute, but however, the same is not thumb rule. Various other circumstances, spelt out from the material brought on record, ought to be taken into consideration. Few of the factors are, as to which of spouse is having the custody of the child and the means of that spouse to take care of the child and others relate to the economic status of the parties, as well as distance between the two places and various other circumstances. Even, the question of ill-health of any of the spouse, as such, can also be considered. But anyhow, there cannot be any straight jacket formula for adjudicating on the question of the transfer application, relating to the matrimonial dispute.

Each case has to be decided, on its own facts and circumstances. One distinctive circumstance in a case, may alter the decision of the transfer application.

In the case in hand, it is the version set up by the applicant that he had suffered MCA stroke in October 2018, at first instance and thereafter, in the month of May 2024. Along with the application, medical record, as such, is also coming on record. Annexure P-2 is the Premium OPD card, relating to the ailment suffered on 29.12.2018 and this spells about the patient to be having Vertigo and imbalance while walking. Furthermore, Annexure P-3, thereafter, relates to the MRI Brain Stroke protocol study dated 29.05.2024, which reveals about ill-health of the applicant.

Further, it is pertinent to mention that physiotherapy and speech therapy was advised for two months and home rest was advised for one month. Thereafter, the applicant had remained under treatment. Even, leave account of the applicant has also been annexed.

Anyhow, it is further pertinent to mention that the last ill-health, came forth on 29.05.2024. However, on 30.05.2024, the petition for seeking divorce was filed before Family Court, Faridabad. The copy of petition is also annexed with the application and perusal of the same reveals that it was signed by the applicant on 30.05.2024. Meaning thereby, it was one day after he suffered from the medical issue that he had signed the said petition. This petition, ought to have been drafted, at his instance, thereby, giving the instances of cruelty, as asserted therein. The affidavit is also annexed with the petition, which is also verified by the applicant on

30.05.2024. Meaning thereby, it was one day after having the stroke, that this petition was filed.

Obviously, this reveals that the applicant was not in such a position, where, it was difficult for him to understand and communicate with his counsel, in the minimum, who drafted the petition. Taking into consideration the same, of course, the applicant had suffered from stroke and his body functionality must have been affected, but considering the step taken for seeking separation, on the very next day, reflects about his condition to be not that precarious, as now emphasized upon.

Considering the same and the long period also having passed by, ever since, he had medical issue and more particularly, considering the certificates of the doctor, coming on record, which states about the applicant to have demonstrated significant improvement in speech and language skills and there being notable progress and this certificate was issued on 07.05.2025 by Chandan Sharma, Audiologist, Speech Therapist & Dysphagia Therapist. Much time has also passed by, ever since the issuance of said certificate.

Thus, it cannot be conclusively held that the medical condition of the applicant is such, on which account, he finds it difficult to pursue the litigation initiated at his instance at Faridabad and that too filed, immediately after suffering the stroke.

Besides the aforesaid, also it is pertinent to mention that the applicant is bound to be affluent. Though, he had stated about himself to be working as Assistant Vice President in IT and did not disclose anything further, but however, the respondent in the reply had stated that the

applicant is working as Assistance Vice President in Max Life Insurance and earning Rs.3.75 lakh. He is also asserted to be having two luxury cars, which are chauffeur driven. Considering the facility, as such, available with him, this aspect of affluence of the applicant, also needs to be taken into consideration.

Besides the aforesaid, it is further pertinent to mention that even though, it is asserted about respondent to be working, but there is no material, as such, coming forth. Even if it be so, then also, the weighing factor is about the respondent, taking care of 10 year old child. Thus, balancing the convenience/inconvenience, no such justifiable reason is spelt out to accept the transfer application.

Moreover, it ought to be considered that it is the civil proceedings going on between the parties, wherein the applicant is not required to make appearance, on each and every date of hearing. He can very well pursue the same through his counsel. Anyhow, he also has an option to seek permission of the Court concerned, to make appearance through virtual mode, as and when, his presence is required. If any such application is filed, the Court concerned, considering the fitness of the circumstances, shall pass an appropriate order.

In view of the aforesaid observations, the transfer application is hereby dismissed.

September 15, 2025
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No