



CRM-M-63586-2023 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-63586-2023 (O&M)
Date of Decision: 23.01.2025

MEENAKSHI AND ORS

...Petitioners

Versus

RAJESH KUMAR

..Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Naresh Kaushik, Advocate
for the petitioners.Ms. Kamaldeep Kaur, Advocate for
Mr. Mohit Sadana, Advocate for respondent.

KIRTI SINGH, J.(Oral)

Prayer in this petition is for transfer of the maintenance petition bearing No.MNT/193/2021 dated 23.07.2019 titled as "***Meenakshi Vs. Rajesh Kumar***" filed under Section 125 of Cr.P.C. pending before the Principle Judge Family Court, Sunam to the competent Court of jurisdiction at Mohali.

2. Learned counsel for the petitioners submits that during the pendency of the aforesaid petition, the petitioner No.1 shifted to District Mohali along with her two minor children due to apprehension of danger and threat at the hands of the respondent-husband. He further submits that the petitioners are facing great difficulty in prosecuting the petitions filed by the respondent, as there is a distance of approximate 190 kms. between Sunam and Mohali and she has two minor children to take care of.

3. Learned counsel has relied upon the judgments ***Sumita Singh Vs. Kumar Sanjay, 2002 SC 396 and Rajani Kishor Pardeshi Vs. Kishor Babulal***



Pardeshi, 2005(12) SCC 237, wherein the Hon'ble Supreme Court observed that while deciding the transfer application, the Courts are required to give more weightage and consideration to the convenience of the female litigants and transfer of legal proceedings from one Court to another should ordinarily be allowed, taking into consideration their convenience and the Courts should desist from putting female litigants under undue hardships.

4. Learned counsel has further relied upon *N.C.V. Aishwarya Vs. A.S. Saravana Karthik Sha, 2022 Live Law (SC) 627*, wherein the Hon'ble Supreme Court held as under: -

“The cardinal principle for exercise of power under Section 24 of the Code of Civil Procedure is that the ends of justice should demand the transfer of the suit, appeal or other proceeding. In matrimonial matters, wherever Courts are called upon to consider the plea of transfer, the Courts have to take into consideration the economic soundness of both the parties, the social strata of the spouses and their behavioural pattern, their standard of life prior to the marriage and subsequent thereto and the circumstances of both the parties in eking out their livelihood and under whose protective umbrella they are seeking their sustenance to life. Given the prevailing socioeconomic paradigm in the Indian society, generally, it is the wife's convenience which must be looked at while considering transfer.

Further, when two or more proceedings are pending in different Courts between the same parties which raise common question of fact and law, and when the decisions in the cases are interdependent, it is desirable that they should be tried together by the same Judge so as to avoid multiplicity in trial of the same issues and conflict of decisions.”

5. Ms. Kamaldeep Kaur, Advocate for Mr. Mohit Sadana, Advocate, has put in an appearance on behalf of respondent and filed his *memorandum of appearance* in Court today, which is taken on record, subject to all just exceptions. Office is directed to tag the same at appropriate place. Learned counsel for



respondent has opposed the prayer made by learned counsel for the petitioners. He submits the present petition has been filed only to harass respondent and the respondent never extended any threat to the petitioners.

6. Heard rival submissions made by counsel for the parties.
7. It is well settled that while considering the transfer of a matrimonial dispute/case at the instance of the wife, the Court is to consider family condition of the wife, custody of the minor child, economic condition of the wife, her physical health and earning capacity of the husband and most important, convenience of the wife i.e. she cannot travel alone without assistance of a male member of her family, connectivity of the place to and fro from her place of residence as well as bearing of the litigation charges and traveling expenses.
8. After hearing the counsel for the parties and in view of the judgments in **Sumita Singh's** case (supra), **Rajani Kishor Pardeshi's** case (supra) and **N.C.V. Aishwarya's** case (supra) passed by the Hon'ble Supreme Court, this Court deem it appropriate to allow the present petition with following directions:-
 - a. The petition filed under Section 125 of Cr.P.C. pending before the Principal Judge Family Court, Sunam will be transferred to the competent Court of jurisdiction at Mohali.
 - b. The District Judge, Mohali will assign the said case to the competent Court of jurisdiction.
 - c. The District Judge, Sangrur is directed to transfer all the record pertaining to the aforesaid case(s) to District Judge, Mohali.
 - d. The parties are directed to appear before the competent court, Mohali within a period of 01 month from today.
 - e. The competent court will make all the endeavour to refer the case before the Mediation and Conciliation Centre for exploring the possibility of amicable settlement between the parties.



9. Present petition is disposed of accordingly.

Pending application(s), if any, also stands disposed of accordingly.

23.01.2025

Kavita

Whether speaking/reasoned
Whether reportable

(KIRTI SINGH)
JUDGE

Yes/No
Yes/No