

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****238****TA-512-2026 (O&M)****Date of decision: 13.05.2026****Bano alias Sayrabano****...Petitioner(s)****Vs.****Amin Khan alias Yamin****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Vishal Mittal, Advocate
for the petitioner.

Mr. Amin Khan-
Respondent in person.

NIDHI GUPTA, J.

Prayer in this petition filed by petitioner-wife under Section 24 of Civil Procedure Code, 1908 is for transferring the Suit no. **DMC/1322/2024** titled as **Amin Khan @ Yamin Vs. Bano @Sayrabano** (Annexure P1), filed by the respondent/husband for declaration to the effect that the Nikah between the plaintiff i.e. Amin Khan and defendant i.e. Bano @ Sayrabano which was solemnised on 07.12.2024 be dissolved under the provisions of Mohammedan Law as both the parties belongs to Sunni community, pending before Ld. Addl. Principal Judge, Family Court, Hisar be transferred to Family Court, Gurugram.

2. It is *inter alia* submitted by learned counsel for the petitioner that the petitioner was married to the respondent/husband on 07.12.2024 according to Muslim/Mohammedan rites and ceremonies. It is submitted that the above said suit filed by the respondent, and pending



before the learned Additional Principal Judge, Family Court, Hisar deserves to be transferred to Family Court at Gurugram as:

- 1) the distance between Hisar and Gurugram is 185 KM and petitioner is unable to travel this distance;
- 2) that father and brother of the petitioner are not able to help the petitioner and, therefore, she is not able to travel;
- 3) that there are 3 cases filed by the petitioner which are already pending in Gurugram, the same being:
 - (a) Petition under Section 125 Cr.P.C. pending before Principal District Judge, Family Court, Gurugram (Annexure P-4);
 - (b) FIR No. 207 dated 05.12.2022 under Sections 323, 34, 354, 498A of IPC against the respondent and his family members (Annexure P-2); and
 - (c) Complaint under Sections 12 read with Section 17, 18, 19, 20, 22 and 23 of the Protection of Women from Domestic Violence Act, 2005 titled as **Smt. Bano vs. Amin Khan and others** before the learned Judicial Magistrate, First Class, Gurugram.

3. It is accordingly prayed that the present Petition be allowed; and the Civil Suit filed by the respondent presently pending before the Family Court, Hisar be transferred to Family Court, Gurugram.

4. *Per Contra*, the respondent, who is appearing in person opposes submissions made on behalf of the petitioner and submits that 2 children, namely, Arman aged 11 years and Ayan aged 8 years were born out of the wedlock of the petitioner and the respondent; who are presently living with the respondent at Hisar. Thus, minor children are in the sole care and custody of the respondent. Moreover, petitioner had left



matrimonial home on 28.09.2021 of her own free will without sufficient cause deserting the minor children and respondent had tried to persuade her many times to come back even with the intervention of Biradari Panchayat however, to no avail. The respondent has to earn his living and is also paying maintenance to the petitioner. Petitioner had also filed several false cases against the respondent and his family thereby causing great harassment to the respondent and his family. Therefore, as the respondent has many additional responsibilities of earning and providing for his family and ensuring proper upbringing of his children, it is accordingly prayed that the present Petition be dismissed.

5. No other argument has been made on behalf of the parties. I have heard learned counsel for the petitioner and the respondent and have perused the case file in detail. I find merit in the submissions of respondent.

6. From the facts noted above, it is clear that unlike the respondent, the petitioner has no onerous responsibility and is living with her father and brother who take care of her. No cogent reason has been given by the petitioner as to why she is unable to travel to Hisar to attend to the proceedings along with her father or brother. On the other hand, the respondent is single-handedly, taking care of both the children born out of the wedlock of the parties. Not only does the respondent have to provide for the material needs of the children, but is also responsible for their mental and physical welfare. In this situation, no equitable ground is made out to transfer the case from Hisar to Gurugram. Mere pendency of other cases at Gurugram is not sufficient reason to transfer.



7. This Court is also well aware that the preponderance of law in cases of transfer emanating from matrimonial disputes is in favour of the wife. However, in certain cases similar to the present one, the Hon'ble Supreme Court, as well as this Court have refused relief to the wife. One such case is: **(2006) 9 SCC 197 'Anindita Das Vs. Srijit Das'** wherein Hon'ble Supreme Court under similar circumstances dismissed the wife's application seeking transfer of petition filed by the husband. Reference may also be made to two cases of this Court where, in similar circumstances this Court had dismissed transfer applications filed on behalf of the wife. These are: **TA No. 126 of 2018 'Smt. Akhwinder Kaur Vs. Sh. Gurpreet Singh'**; and **TA No. 299 of 2019 'Nisha alias Manisha vs. Amarveer Yadav'**.

8. Accordingly, in view of the facts and circumstances of the present case as noted above, as also the precedents of Case law as noted above, finding no merit in this petition, the same is hereby **dismissed**.

9. Pending applications, if any, stand disposed of.

13.05.2026

Divyanshi

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No