

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

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Crl. Misc. No. M 10717 of 2014

Date of decision: 23.02.2015

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..... Petitioner

Versus

State of Haryana and others

..... Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

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Present: Mr. M K Garg, Advocate
for the petitioner

Mr. Rajesh Gaur, Additional A G, Haryana
for respondent No. 1

Mr. S K Chauhan, Advocate
for respondents No. 2 to 5

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1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

Rekha Mittal, J. (Oral)

The present petition under Section 482 of the Code of Criminal Procedure (in short 'Cr.P.C.') has been preferred seeking transfer of criminal case pertaining to FIR No. 685 dated 10.09.2013 registered in Police Station Bhiwani City, District Bhiwani for offence punishable under sections 498-A, 323, 377, 506 read with Section 34 of the Indian Penal Code pending in the Court of Chief Judicial Magistrate, Bhiwani to the Court of competent jurisdiction at Jind.

Counsel for the petitioner would contend that the petitioner apprehends threat to her life at the time of her appearance before the Court

at Bhiwani as the accused are residents of Bhiwani. There is physical distance of 75 km between Bhiwani and Jind causing inconvenience to the petitioner to attend to the Court proceedings. The petitioner initiated two petitions under Section 12 of the Protection of Women from Domestic Violence Act, 2005 Act and Section 125 Cr.P.C respectively which are pending before the JMIC, Jind.

Counsel for the State and private respondents have opposed the prayer with the submissions that after completion of investigation, report under Section 173 of the Code of Criminal Procedure has already been filed against the private respondents. It is further submitted that since no such application seeking police protection has been made by the petitioner, her prayer for transfer of criminal proceeding relating to said FIR may be rejected.

I have heard counsel for the parties and perused the records.

The criminal proceedings are pending in the Court on the basis of police report, therefore, the prosecution is being conducted by the State through Public Prosecutor. The petitioner is required to appear in the Court for the purpose of recording her statement as complainant. If she perceives any threat to her life and liberty at the time of her appearance in the Court for deposing as a witness, she is always at liberty to file an appropriate application before the trial Court seeking protection so that no harm is caused to her when she goes to Bhiwani for appearance as a witness and said application would be decided by the trial Court in accordance with law, keeping in view the fact that a witness who apprehends threat can seek police protection. However, the said fact alone is not sufficient to hold in favour of the petitioner particularly in the circumstances that in case

proceedings are transferred from Bhiwani to Jind, four persons arrayed as accused would be put to inconvenience of travelling all the way from Bhiwani to Jind on each and every date of hearing.

In view of the above, the petition stands disposed of with liberty to the petitioner to file an appropriate application before the trial Court for seeking security on the date, she has to appear in the Court at Bhiwani for deposing as a witness. The trial Court is directed to ensure that every effort would be made to complete examination of the complainant in a single sitting.

(Rekha Mittal)
Judge

23.02.2015
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