

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl. Misc. No. M-11699 of 2014

Date of decision : 04.05.2015

Baljit Kaur

..... Petitioner

versus

State of Punjab and another

... Respondents

CORAM:- HON'BLE MRS. JUSTICE ANITA CHAUDHRY

**Present: Mr. Parminder Singh, Advocate
for the petitioner**

Mr. K.S. Aulakh, AAG Punjab

**Mr. Narinder Kaur, Advocate
for respondent No. 2**

ANITA CHAUDHRY, J.

This petition has been filed under Section 407 Cr.P.C. seeking transfer of the case from the Court of Ludhiana to the competent Court at Bathinda.

The petitioner was earlier married to Anand Singh. That marriage ended in divorce. The petitioner has grown up children from the first marriage. In 2010, the petitioner married respondent No. 2 who is presently 74 years old. A complaint was made by Nirmal Singh which led to registration of FIR against the petitioner under Section 328, 380, 420, 120-B IPC registered at Police Station Dhaka, District Ludhiana.

Challan has been submitted and the trial has started.

Learned counsel for the petitioner contends that the petitioner has initiated proceedings under the Domestic Violence Act

and also under Section 125 Cr.P.C. which are pending in the Court at Bathinda and the petitioner is staying at Bathinda and is meeting her daily needs and is running a tiffin service and when various litigations are pending in Bathinda, the case pending in Ludhiana should also be transferred to Bathinda in the interest of justice. He further urges that there would be no hardship to the private respondent as he comes to Bathinda to attend hearings in the other cases.

Learned counsel appearing for the private respondent urges that the respondent is 74 years old and he had filed a petition under Section 9 of Hindu Marriage Act and an ex-parte decree was passed and they were not aware whether any application has been filed for setting aside the decree. It was urged that the petitioner had cheated the respondent and over Rs. 25 lacs have been taken away by the petitioner. She states that it would be difficult for the respondent to travel to Bathinda and all the witnesses are residents of Ludhiana. He also adds that it would be hardship not only for the complainant but the State and it would load unnecessary expenses on the public exchequer and there is no valid reason for transfer of the case.

Section 407 Cr.P.C. gives powers to the High Court to transfer cases and appeals, if the following conditions are fulfilled.:-

407. Power of High Court to transfer cases and appeals.- (1) *Whenever it is made to appear to the High Court -*

(a) that a fair and impartial inquiry or trial cannot be had in any Criminal Court subordinate thereto, or

(b) that some question of law of unusual difficulty is likely to arise; or

(c) that an order under this section is required by any provision of this Code, or will tend to the general convenience of the parties or witnesses, or is expedient for the ends of justice.

A case can be transferred only if there is an unusual difficulty or where the parties do not expect a fair trial or for general convenience of the parties. Section 4 Cr.P.C. is comprehensive Section and enjoins that all offences under the Indian Penal Code shall be investigated, inquired into, tried and otherwise dealt with according to the provision contained therein. A trial takes place ordinarily in the criminal Court of local jurisdiction. The petitioner is seeking transfer of the trial on the plea that it would cause inconvenience to her as she is running a tiffin service and earning a living at Bathinda.

Respondent No. 2 is 74 years old. It would be a case of hardship for him to travel and take the witnesses to another District.

I am of the view that no ground for transfer of the case is made out even otherwise the case does not strictly fall under any of the conditions contained in Section 407 Cr.P.C.

The petition is dismissed.

May 04, 2015

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**(ANITA CHAUDHRY)
JUDGE**